

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 20. BOARD OF DISPENSING OPTICIANS

##### PREAMBLE

##### **1. Sections Affected**

R4-20-101  
R4-20-102  
R4-20-103  
R4-20-104  
R4-20-105  
R4-20-106  
R4-20-107  
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R4-20-126  
R4-20-127  
Table 1

##### **Rulemaking Action**

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##### **2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule are implementing (specific):**

Authorizing statute: A.R.S. § 32-1673

Implementing statutes: A.R.S. §§ 32-1671, 32-1672, 32-1673, 32-1674, 32-1681, 32-1682, 32-1683, 32-1684, 32-1684.01, 32-1685, 32-1686, 32-1687, 32-1691, 32-1691.01, 32-1693, 32-1694, 32-1695, 32-1695, 32-1696, 32-1697, 32-1698, 32-1699

##### **3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 2320, June 11, 2004

##### **4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Lori D. Scott, Executive Director

Address: 1400 W. Washington, Rm 230  
Phoenix, AZ 85007

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Telephone: (602) 542-3095  
Fax: (602) 542-3093  
E-mail: [director@asbdo.state.az.us](mailto:director@asbdo.state.az.us)

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The rules provide detailed licensing and regulatory information and procedural instructions. The Board is amending the proposed rules for clerical clarification and adding a more expanded scope of opticianry.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposed to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A Showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

The proposed amendments do not diminish a previous grant of authority of a political subdivision of this state.

**8. The preliminary summary of the economic, small business, and consumer impact:**

This rulemaking will impact applicants with the clarification of examination fees. The Board anticipates minimal to no impact on licensees or consumers with the amendments proposed.

**9. The name and address of agency personnel with who persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Lori D. Scott, Executive Director  
Address: 1400 W. Washington, Rm 230  
Phoenix, Arizona 85007  
Telephone: (602) 542-3095  
Fax: (602) 542-3093  
e-mail: [director@asbdo.state.az.us](mailto:director@asbdo.state.az.us)

**10. The time, place and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where when and how persons may request an oral proceeding on the proposed rule:**

No oral proceedings are scheduled.

Written comments will be accepted by the Board office, Monday through Friday 8:00 a.m. – 5:00 p.m. no later than 5:00 pm November 30, 2004.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

R4-20-119.B.

ANSI Z80.1-1999, "Prescription Ophthalmic Lenses-Recommendations".

ANSI Z80.20-1998, "Contact Lenses- Standard Terminology, Tolerances Measurements, And Physiochemical Properties".

ANSI Z80.5-2004, "Requirements for Ophthalmic Frames."

ANSI Z87.1-2003, "Practice for Occupational and Educational Eye and Face Protection".

ANSI Z80.3-1998 "Non Prescription Sunglasses And Fashion Eyewear – Requirements".

ANSI Z80.9-1998 "Low Vision Aids - Requirements"

**13. The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 20. BOARD OF DISPENSING OPTICIANS**

**ARTICLE 1. IN GENERAL**

Section

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R4-20-102.	Application for a Dispensing Optician's License by Examination
R4-20-103.	Approval to Take Dispensing Optician Examination
R4-20-104.	Dispensing Optician Examinations
R4-20-105.	Examination Procedures
R4-20-106.	Scoring of Examination; Failure to Pass
R4-20-107.	Application for a Dispensing Optician's License by Comity
R4-20-109.	Renewal of Dispensing Optician's License
R4-20-110.	Application for an Optical Establishment License
R4-20-111.	Time-frames for License Approvals
R4-20-112.	Fees
R4-20-113.	Display of Licenses, Nontransferability
R4-20-114.	Notice of Change of Status
R4-20-115.	Renewal of Optical Establishment License
R4-20-116.	Rehearing or Review of Decision
R4-20-117.	Scope of Practice
R4-20-118.	Unprofessional Conduct
R4-20-119.	Substandard Care
R4-20-120.	Continuing Education; Hours Required; Reporting
R4-20-121.	Continuing Education; Approval of Courses
<u>R4-20-122.</u>	<u>Agency Record; Director of Substantive Policy Statements</u>
<u>R4-20-123.</u>	<u>Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact</u>
<u>R4-20-124.</u>	<u>Public Comments</u>
<u>R4-20-125.</u>	<u>Oral Proceedings</u>
<u>R4-20-126.</u>	<u>Petition for Delayed Effective Date</u>
<u>R4-20-127.</u>	<u>Written Criticism of Rule</u>
Table 1.	Time-frames (in days)

**ARTICLE 1. IN GENERAL**

**R4-20-101. Definitions**

The following definitions apply in this Chapter unless otherwise specified:

1. "ABO" means the American Board of Opticianry.
2. "Applicant" means an individual requesting an initial or renewal license from the Board.
3. "Application packet" means the forms and additional information the Board requires to be submitted by an applicant or on the applicant's behalf.
4. "Comity" means the procedure for granting an Arizona license to an applicant who is already licensed as a dispensing optician in another state of the United States.
5. "Days" means calendar days.
6. "Laboratory experience" means work directly involved in the process of producing optical devices and does not include work that is strictly clerical.
7. "License" means a written authorization issued by the Board to practice as a dispensing optician or operate an optical establishment in Arizona.
8. "NCLE" means the National Contact Lens Examiners.
9. "Nationally recognized body of Opticianry Accreditation" means the Commission on Opticianry Accreditation.
10. "Optical devices" means eyeglasses, contact lenses, prosthetic eyes, low-vision aids, other eyewear, or eyewear appurtenances or parts.
11. "Optometrist" means a person currently licensed in any state of the United States in the practice of the profession of optometry as defined in A.R.S. § 32-1701 ~~in any state of the United States~~.
12. "Physician" means a doctor currently licensed to practice allopathic or osteopathic medicine in any state of the United States.
13. ~~"Vision practitioner" means a physician licensed in Arizona.~~
14. "Work week" means the period of time beginning on Sunday at 12:00 a.m. and ending the following Saturday at 11:59 p.m.

**R4-20-102. Application for a Dispensing Optician's License by Examination**

At least 45 days before an examination date, an applicant for a dispensing optician's license by examination shall submit to the Board an application packet that contains:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:

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- a. The applicant's name, social security number, address, and telephone number;
- b. The name and address of the applicant's employer at the time of application, if applicable;
- c. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(b), the name and address of each dispensing optician, physician, or optometrist for whom the applicant served as an apprentice for 3 three of the 6 six years immediately preceding the application date, and the 1st beginning and last ending dates of each apprenticeship;
- d. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(c), the name and address of the school from which the applicant graduated, dates of attendance, date of graduation, degree received, and the name and address of each dispensing optician for whom the applicant served as a dispensing optician apprentice for 1 one of the 6 six years immediately preceding the application date and the 1st beginning and last ending dates of service. The applicant shall submit a photocopy of a diploma from the optical dispensing school;
- e. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(d), the name and address of each dispensing optician, physician, or optometrist for whom the applicant has worked for 3 three of the 6 six years immediately preceding the application date and the first beginning and last ending dates of employment;
- f. A statement of whether the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude in any state;
- g. A statement of whether the applicant has ever ~~been denied~~ had an application for a professional license denied or had a license suspended or revoked in any state; and
- h. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
2. A photocopy of the applicant's high school diploma or general educational diploma issued in any state;
3. Verification of passing a ABO and NCLE national Board examination in opticianry as evidenced by an original notice of examination results or original certificate of successful passage issued by the professional examination service that prepared the examination;
4. A letter attesting to good moral character from each of 3 three individuals who are not family members, who have known the applicant for 2 two years immediately preceding before the date of the application, and support the applicant's licensure;
5. A letter from each ophthalmologist, physician, optometrist, or dispensing optician named in subsection (1)(c),(d), or (e) ~~licensed in any state who provided direct supervision to the applicant during the applicant's apprenticeship~~ that contains:
  - a. The individual's printed name, address, and telephone number; and
  - b. A statement that the applicant has either served as an apprentice or been employed as a dispensing optician by the ~~ophthalmologist-physician, optometrist, or dispensing optician~~ for the time required in subsections ~~(A)(1)(c),(d), or (e). If the applicant served as an apprentice or was employed as a dispensing optician by more than 1 ophthalmologist, optometrist, or dispensing optician, the applicant shall submit a letter from each ophthalmologist, optometrist, or dispensing optician for whom the applicant is claiming experience.~~
6. A ~~passport~~ photograph of the applicant no ~~larger~~ smaller than 1 ½ x 2 inches and taken not more than 6 six months before the date of application; and
7. The fee required in R4-20-112.

**R4-20-103. Approval to Take Dispensing Optician Examination**

- A. An applicant shall file an application to take the dispensing optician license examination ~~shall be received by~~ with the Board 45 days ~~prior to before~~ the date of the examination.
- ~~B.C.~~ The Board shall notify applicants ~~Applicants~~ whose applications have been approved ~~shall be notified prior to before~~ the date of the examination as to the time and place of the examination.
- ~~C.B.~~ The Board may reduce or waive the 45 day requirement for any portion of the application if its nonavailability is outside the applicant's control.

**R4-20-104. Dispensing Optician Examinations**

- A. At least twice each year, the Board shall administer a dispensing optician examination. The Board shall not space the examinations more than 8 eight months apart.
- ~~B.~~ A written dispensing optician examination shall cover the following subjects:
  - 1- ~~Ocular anatomy;~~
  - 2- ~~Geometric optics and laboratory;~~
  - 3- ~~Ophthalmic dispensing; and~~
  - 4- ~~Contact lenses.~~
- ~~C.B.~~ The practical examination shall include measurement of optical devices, interpupillary distance, segment heights, corneal curvature and the identification of lens styles and tints. Only Board supplied measuring equipment and optical devices shall be used in the practical examination.
- ~~D.~~ An individual who obtained a passing score on a dispensing optician examination administered by the ABO and holds a

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current certificate issued by the ABO, may substitute the dispensing optician examination for those portions of the examination required in subsections (B)(1), (B)(2), and (B)(3), by submitting to the Board a current ABO certificate that states ABO requirements have been met and by:

1. Submitting to the Board the original notice of examination results or the original certificate that states the individual passed the examination; or
2. Having the ABO submit directly to the Board a notice of examination results or certificate of passing the examination.

**E.** An individual who obtained a passing score on a contact lens examination administered by the NCLE, and holds a current certificate issued by the NCLE may substitute that examination for those portions of the examination required in subsection B(4), by submitting to the Board a current NCLE certificate that states NCLE requirements have been met and by:

1. Submitting the original notice of examination results or the original certificate that states the individual passed the examination; or
2. Having the NCLE submit directly to the Board a notice of examination results or certificate of passing the examination.

**R4-20-105. Practical Examination Procedures**

~~A.~~ The Board's method of administering the written portion of an examination shall be for the applicant to apply to the American Board of Opticianry and National Contact Lens Examiners and successfully complete those examinations. Rules of the testing service shall apply.

~~B.A.~~ For the practical examination, an applicant shall not bring books or notes into the examination room, communicate by any means with other applicants while the examination is in progress, unless expressly authorized by the presiding examiner, or leave the examination room without first securing the presiding examiner's permission. Violation of this subsection shall terminate the applicant's right to continue the examination. If an applicant violates this Section, the presiding examiner shall confiscate the examination answer sheet and the applicant will not be allowed to complete the examination.

~~C.B.~~ For the practical examination, no persons except applicants, Board members, employees of the Board or persons having the express permission of the Board shall be permitted in the examination room while the examination is in progress.

~~D.C.~~ The Examination papers are the property of the Board and the Board shall will not be returned return examination papers to the applicant.

**R4-20-106. Scoring of Examination; Failure to Pass**

A. To pass, an applicant shall achieve a grade of 75% or more ~~shall be achieved~~ on the practical examination. For the written subjects exam, the applicant ~~must meet the passing~~ shall achieve a grade of 70% or more on the American Board of Opticianry examination and ~~must meet the passing~~ shall achieve a grade of 72% or more on the National Contact Lens Examiners examination.

B. Failure to pass an examination shall not preclude an applicant from participation in a subsequent examination.

C. An applicant who fails to pass the practical examination ~~may re-take the practical examination at either of the next two scheduled examinations without the payment of any additional fee~~ shall reapply as an original applicant.

~~D.~~ After the second failure of the practical examination, re-examination will be permitted only after filing a second application and payment of the fee for re-application.

**R4-20-107. Application for a Dispensing Optician's License by Comity**

An applicant for a dispensing optician's license by comity shall submit an application packet to the Board that contains:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
  - a. The applicant's name, social security number, address, and telephone number;
  - b. The applicant's dispensing optician license number and the state and date of licensure;
  - c. A statement of whether the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude in any state;
  - d. A statement of whether the applicant has ever been denied an application or had a license suspended or revoked in any state; and
  - e. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
2. A photocopy of the unexpired license and a written statement, signed by an officer of the licensing Board that issued the license, that states the license is in good standing, and that the license is valid to dispense both spectacles and contact lenses;
3. A photograph of the applicant no ~~larger~~ smaller than 1 ½ x 2 inches and taken not more than ~~6~~ six months before the date of application; and
4. The fee required in R4-20-112.

**R4-20-109. Renewal of Dispensing Optician's License; Late Renewal; Reinstatement**

A. No later than December 31 of each year, an applicant for renewal of a dispensing optician's license shall submit to the

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Board the fee required by R4-20-112, continuing education credits required by R4-20-120, and an application form, provided by the Board, signed and dated by the applicant, and notarized that contains:

1. The applicant's name, social security number, address, and telephone number;
2. The name, address, telephone number, and Arizona license number of the optical establishment at which the applicant is currently practicing as a dispensing optician; and
3. A statement that the information contained on the renewal application is true and correct.

**B.** A licensee who submits a renewal application and renewal fee postmarked after December 31 but before January 31 of the following year shall also pay the late fee as outlined in R4-20-112.

**C.** A licensee who fails to submit a renewal application postmarked before January 31 following a license expiration of December 31, and who wishes to reinstate the license, shall submit a reinstatement application within one year of license expiration, shall pay the renewal fee and the late fee as outlined in R4-20-112 and shall achieve a passing grade on the state board practical examination. The applicant shall also achieve a passing score on the ABO and NCLE national board examinations if not previous completed.

**R4-20-110. Application for an Optical Establishment License**

An applicant for an optical establishment license shall submit an application packet to the Board that contains:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
  - a. The applicant's name, establishment name, establishment address, and telephone number. An application form shall be signed by the following:
    - i. If a sole proprietorship, the individual owning the optical establishment;
    - ii. If a corporation, each individual owning 20% or more of the voting stock in the corporation;
    - iii. If a partnership, the managing partner and a general partner;
    - iv. If a limited liability company, the designated manager, or if no manager is designated, any ~~2~~ two members of the limited liability company;
  - b. The hours the establishment will be open to the public for business;
  - c. If applicable, the name, business address, and telephone number of each licensed optical establishment currently being operated by the applicant in Arizona;
  - d. If a corporation, the name of the statutory agent, the corporation's officers, and the state of incorporation; and
  - e. The name, business address, telephone number, and license number of each licensed dispensing optician who is scheduled to work at the establishment on a full-time basis, consisting of ~~for~~ 32 hours or more per week;
2. If a corporation, the articles of incorporation; and
3. The fee required in R4-20-112.

**R4-20-111. Time-frames for License Approvals**

**A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the substantive review and overall time-frame. The substantive review time-frame may not be extended by more than 25% of the overall time-frame.

**B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is set forth in Table 1.

1. The administrative completeness review time-frame begins:
  - a. For approval to take a dispensing optician examination or for an optical establishment license, when the Board receives an application packet.
  - b. For approval or denial of a license by examination ~~or license by comity~~, when the applicant takes the dispensing optician examination.
  - c. For approval or denial of a license by comity, when the Board receives an application packet.
2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
4. If the Board grants a license or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.

**C.** The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of the notice of administrative completeness.

1. During the substantive review time-frame, the Board may make ~~+~~ one comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.

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2. The Board shall send a written notice approving the applicant ~~A.R.S. §§ 32-1681 through 32-1687~~ to take an examination or granting a license to an applicant who meets the qualifications in A.R.S. §§ 32-1681 through ~~32-1687~~ 1684 and 32-1687.
3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. §§ 32-1681 through ~~32-1687~~ 1684 and 32-1687.
- D. The Board shall consider an application withdrawn if within 360 days from the application submission date the applicant fails to:
  1. Supply the missing information under subsection (B)(2) or (C)(1); or
  2. Take the dispensing optician examination.
- E. An applicant who does not ~~wish~~ want an application withdrawn may request a denial in writing within 360 days from the application submission date.
- F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the next business day shall be considered the time-frame's last day.

**R4-20-112. Fees**

- A. Dispensing optician fees, which are non-refundable unless A.R.S. §41-1077 applies, are as follows:

1. License application fee\$75
2. License issuance fee\$75
3. Renewal of dispensing optician license\$100
4. License renewal late fee\$100

- B. Optical establishment license fees are as follows:

1. License application fee\$100
2. License issuance fee\$100
3. Renewal of optical establishment license\$100
4. License renewal late fee\$100

- C. Fees for copies of public records are:

1. Duplicate optician license \$25
2. Duplicate establishment license \$25
3. Statutes and rules \$10
4. Directories:
  - a. Commercial use\$2.50 per page
  - b. Non-commercial use\$1.00 per page
5. Labels
  - a. Commercial use\$ .30 per name
  - b. Non-commercial use\$ .10 per name
6. All other records\$ .50 per page

**R4-20-113. Display of Licenses, Nontransferability**

- A. A licensee shall display all licenses, including temporary licenses, shall be displayed in public view in a conspicuous place. If a license has been renewed, the licensee shall display the evidence of renewal or copy thereof must be displayed with the license in public view.
- B. Optical establishment and dispensing optician licenses are not transferable.
- C. A licensee shall return the optical establishment licenses ~~shall be returned~~ to the Board upon transfer of ownership or going out of business.

**R4-20-114. Notice of change of status**

- A. An optical establishment licensees and dispensing optician licensees shall notify the Board of any change in the information provided to the Board concerning license application or its renewal, including any changes in name, address, work location, establishment ownership ~~and or~~ the name, address ~~and or~~ home telephone number of each dispensing opticians; ~~optometrists or vision practitioners~~ working at the establishment.
- B. This notice shall be in writing and made within 30 days of change of status.
- C. For purposes of this Section, a change of establishment ownership means:
  1. The transfer of a controlling interest in the optical establishment business from one person to another;
  2. The addition or termination of a general partner;
  3. The transfer or agreement to transfer a block ~~of or~~ 20 percent or more of the outstanding voting stock of a corporation or association or the transfer or agreement to transfer any amount of voting stock ~~which that~~ would give the transferee control of a majority of its outstanding voting stock. For purposes of this subsection, "voting stock" ~~includes means~~ includes means any interest or system whereby the operation of a corporation is controlled by its owners or trustees.

**R4-20-115. Renewal of Optical Establishment License; Late Renewal; Re-application**

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- A. No later than June 30 of each year, an applicant for renewal of an optical establishment license shall submit to the Board the fee required by R4-20-112 and an application form, provided by the Board that contains:
  - 1. The name, address, and telephone number of the optical establishment;
  - 2. The name and license number of each dispensing optician who is scheduled to work 32 hours or more each work week at the optical establishment; and
  - 3. The applicant's signature and title.
- B. A licensee who submits a renewal application and renewal fee postmarked after June 30 but before July 31 of the renewal year shall also pay a late fee as outlined in R4-20-112.
- C. A licensee who fails to submit a renewal application postmarked prior to July 31 following a license expiration of June 30, and who wishes to re-apply for an establishment license, shall submit an original application, and shall pay the application fee and license fee outlined in R4-20-112.

**R4-20-116. Rehearing or Review of Decision**

- A. Except as provided in subsection (G), ~~any~~ a party in a contested case before the Board who is aggrieved by a decision rendered in ~~such the~~ case may file with the Board not later than ~~ten~~ 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds ~~therefore for the rehearing or review~~. For purposes of this subsection, a decision ~~shall be~~ is deemed to have been served when personally delivered or mailed by certified mail to the party at ~~his the party's~~ last known residence or place of business.
- B. ~~A party may amend a motion for rehearing or review under this Section may be amended at any time before it is ruled upon by the Board. Any other party may file a response may be filed within ten 15 days after service of such the motion or amended motion by any other party. The Board may require the filing of written brief upon the issues raised in the motion and may provide for oral argument.~~
- C. A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
  - 1. Irregularity in the administrative proceedings of the ~~agency Board, the Board's or its~~ informal interviewing officer, or the prevailing party, or any order or abuse of discretion whereby the moving party was deprived of a fair hearing or interview;
  - 2. Misconduct of the Board or the prevailing party;
  - 3. Accident or surprise ~~which that~~ could not have been prevented by ordinary prudence;
  - 4. Newly discovered material evidence ~~which that~~ could not with reasonable diligence have been discovered and produced at the original hearing;
  - 5. Excessive or insufficient penalties;
  - 6. Error in the admission or rejections of evidence or other errors of law occurring at the administrative hearing; or
  - 7. That the decision is not justified by the evidence or is contrary to law.
- D. The Board may affirm or modify the decision or grant a rehearing or review to all or any of the parties and on all or part of the issues for any of the reasons ~~set forth~~ in subsection (C). An order granting a rehearing or review shall specify with particularity the ground ~~or grounds~~ on which the rehearing or review is granted, and the rehearing or review shall cover only those matters ~~so~~ specified.
- E. Not later than 10 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of ~~its a~~ decision for any reason for which ~~the Board it~~ might have granted a rehearing or review on motion of a party. After giving the parties or ~~their the parties'~~ counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. ~~Any order granting such a rehearing or review shall specify the grounds therefore.~~
- F. When a motion for rehearing or review is based upon affidavits, ~~they the moving party shall be served serve the affidavits with the motion. An opposing party may within 10 days after such service, serve opposing affidavits. That period may be extended The Board may extend the period for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. The Board may permit reply affidavits may be permitted.~~
- G. If in a ~~particular~~ decision the Board makes specific findings that the immediate effectiveness of ~~such the~~ decision is necessary for the immediate preservation of the public peace, health, ~~and or~~ safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the ~~board may issue the decision may be issued~~ as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, ~~a party shall make any application for judicial review of the decision shall be made~~ within the time limits permitted for applications for judicial review of the Board's final decisions.
- H. For purposes of this Section the terms "contested case" and "party" have the same meaning as in A.R.S. § ~~31-1671(3)~~ 41-1001.

**R4-20-117. Scope of practice**

The scope of practice of a dispensing optician ~~includes those~~ means the activities described in A.R.S. §32-1671(3) and the following:



Notices of Proposed Rulemaking

“Scope of Opticianry” includes but is not limited to the following:

- a. Communicating with the consumer by:
  1. Establish a rapport with the consumer;
  2. Determine the patient’s needs and wants;
  3. Illustrate and demonstrate ophthalmic products;
  4. Sell ophthalmic products needed for optimum vision by the consumer;
  5. Articulate sales and service policies;
  6. Instruct the consumer on the use and care of ophthalmic products;
  7. Use communication equipment; and
  8. Respond to consumer complaints.
- b. Analyze and interpret prescriptions by:
  1. Analyze the patient’s prescription;
  2. Detect and verify prescription irregularities; and
  3. Determine the relationship between prescription and the patient’s needs and wants.
- c. Fit and dispense spectacles, contacts, and accessories by:
  1. Make recommendations to the consumer;
  2. Take necessary measurements;
  3. Evaluate parameters of new and old eyewear;
  4. Offer additional ophthalmic products that will enhance the vision of the consumer’s self image;
  5. Verify accuracy of ordered products;
  6. Adjust products as needed;
  7. Demonstrate product performance and applicability; and
  8. Provide follow-up services;
- d. Utilization of standard ophthalmic equipment by:
  1. Operate equipment;
  2. Maintain equipment; and
  3. Compute and analyze ophthalmic data;
- e. Perform administrative duties such as:
  1. Document and place orders;
  2. Process consumer payments;
  3. Maintain price and product lists;
  4. Maintain consumer records;
  5. Maintain dispensing environment; and
  6. Determine patient’s participation in a third party program;
- f. Engage in professional and ethical conduct by:
  1. Work within professional and legal boundaries as specified in R4-20-119(B);
  2. Conduct oneself in a professional and ethical manner;
  3. Develop and maintain support with other professionals, including but not limited to, refractionists; and
  4. Reinforce eyecare education.

**R4-20-118. Unprofessional Conduct**

In addition to actions specified in A.R.S. §32-1696, unprofessional conduct in the practice of optical dispensing includes the following:

1. Substandard care as specified in R4-20-119;
2. Failing to maintain a copy of the customer’s prescription or failing to prepare and maintain a record of the optical devices actually dispensed for a minimum period of at least three years. The record shall include the brand, style and size of the frame, if any, and the style, material, and all other information necessary to accurately reproduce each lens. All such records shall be separate from Arizona state licensed optometrists’ or physicians’ records;
3. Failing or refusing to make a copy of a record described in Paragraph subsection (2) promptly available to the customer who is the subject of the record, the customer’s prescribing practitioner, or the Board or its investigator, when requested. Notwithstanding this provision, a dispensing optician need not make the record of contact lenses dispensed on a trial basis available to the customer until the trial period has ended or a period of 60 days has elapsed without the dispensing of a retiral lens; or
4. Failing or refusing to take corrective action or consider a customer complaint concerning the manufacture or fit of eyeglasses, contact lenses or other optical devices dispensed at the establishment by which the dispensing optician is employed if there is a substantial basis for the complaint.

**R4-20-119. Substandard Care**

A. It is substandard care for a dispensing optician:

Notices of Proposed Rulemaking

1. To dispense improperly manufactured eyeglasses or contact lenses ~~which are the subject of a complaint filed with the Board under A.R.S. § 32-1691.01(B).~~ If ~~the~~ a complaint indicates that eyeglasses or contact lenses dispensed by a dispensing optician or other employee of an optical establishment may have been improperly manufactured, the Board shall be guided in its determination of the facts by referring to the standards specified in subsection (B) with regard to the individual parameters listed in the standards and considering patient wear, care, and usage;
  2. When interpreting written prescriptions, to fail to follow ~~industry standards specified~~ standards incorporated by reference in subsection (B) in determining lens powers due to differences in vertex distances, base curvatures, special lens requirements, and facial fitting problems, or to fail to comply with special instructions of the vision practitioner or optometrist shown on the prescription without the full knowledge and consent of the customer, the ~~vision practitioner physician, or optometrist;~~
  3. To fail to follow manufacturer's guidelines regarding usual and customary lens thickness of eyewear;
  4. To intentionally or negligently injure a customer during the course of optical dispensing; ~~or~~
  5. To fail to give the customer appropriate instructions on the care, handling and wearing of the optical devices.
- B. The following standards published by the American National Standards Institute, Inc., ANSI, are incorporated herein by reference and are on file ~~in with the office of the Secretary of State Board:~~
1. ANSI Z80.1-~~1987~~ 1999, "Prescription Ophthalmic Lenses-Recommendations" ~~and no further changes.~~
  2. ANSI Z80.20-~~1989~~ 1998, "Rigid Contact Lenses-Requirements Standard Terminology, Tolerances Measurements, And Physiochemical Properties" ~~and no further changes.~~
  3. ANSI Z80.5-~~1979~~ 2004, "Requirements for ~~Dress~~ Ophthalmic Frames."
  4. ANSI Z87.1-~~1989~~ 2003, "Practice for Occupational and Educational Eye and Face Protection" ~~and no further changes.~~
  5. ANSI Z80.3-1998 "Non Prescription Sunglasses And Fashion Eyewear – Requirements"
  6. ANSI Z80.9-1998 "Low Vision Aids- Requirements"

**R4-20-120. Continuing Education; Hours Required; Reporting**

- A. Within every three year period from the date of obtaining a license, ~~or renewing a license, subsequent to the effective date of this rule,~~ a person licensed as a dispensing optician shall complete no fewer than 12 ~~clock~~ hours of approved continuing education ~~that is approved by the Board for credit.~~
- B. Each licensee shall submit documentation to the Board verifying that the licensee has completed 12 ~~clock~~ hours or more of continuing education, ~~as required,~~ within each three year ~~subsequent~~ period. ~~Any false statement by a licensee in the documentation shall be grounds for disciplinary action, including suspension or revocation of license. The licensee shall provide documentation shall that identify identifies the courses and the number of credit hours completed and shall include the following:~~
- C. Of the 12 ~~clock~~ hours of continuing education, each licensee shall ~~meet the following minimum course requirements as follows-obtain at least:~~
1. Four ~~clock~~ hours ~~of in~~ eyeglass fitting and dispensing;
  2. Three ~~clock~~ hours ~~of in~~ contact lens fitting and dispensing;
  3. One ~~clock~~ hour ~~of in~~ state ~~and or~~ national opticianry standards.
- D. Hours will be measured as follows: ~~any single session covering not less than two hours and forty minutes will be assigned three hours; any single session covering not less than one hour and forty minutes will be assigned two hours; any single session covering not less than fifty minutes will be assigned one hour~~ one credit hour will be assigned for each 50 minutes of a single session.
- E. The Board shall take disciplinary action, for submitting false information in connection with continuing education documentation.

**R4-20-121. Continuing Education; Approval of Courses**

- A. American Board of Opticianry and National Contact Lens Examiners courses ~~shall be~~ are approved for continuing education credit. Other individuals or organizations seeking ~~credit for or~~ approval of a continuing education course for credit shall apply to the Board 45 days ~~prior to~~ before the date the course is offered. The application shall contain the following information ~~of on~~ the course:
1. Title and description of course content ~~for each course;~~
  2. Time, date, and place;
  3. Number of credit hours;
  4. Name of the sponsor and presenter; ~~and~~
  5. Brief curriculum vitae of the presenter.
- B. A licensee shall not apply any excessive hours accrued during one reporting period may not be applied to any subsequent reporting period.

**R4-20-122. Agency Record; Directory of Substantive Policy Statements**

The official rulemaking record for each rulemaking and directory of substantive policy statements is located in the office of the

**Notices of Proposed Rulemaking**

Board and may be reviewed any week day, 8:00 a.m. to 5:00 p.m., except state holidays.

**R4-20-123. Petitions For Rulemaking: Review Of Agency Practice Or Substantive Policy Statements: Objection To Rule Based Upon Economic, Small Business, Or Consumer Impact**

A petition to adopt, amend, or repeal a rule or to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule under A.R.S. § 41-1033 or to object to a rule in accordance with A.R.S. § 41-1056.01 shall be filed with the Board as prescribed in this Section. Each petition shall contain:

1. The name and current address of the petitioner;
2. For the adoption of a new rule, the specific language of the proposed rule;
3. For the amendment of a current rule, the applicable A.A.C. citation and section heading. The request shall include the specific language of the current rule, any language to be deleted shall be stricken through but legible, and any new language shall be underlined;
4. For the repeal of a current rule, the applicable A.A.C citation and section heading;
5. The reasons the rule should be adopted, amended, or repealed, and if for an existing rule, why the rule is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. The petitioner may provide additional supporting information, including:
  - a. Any statistical data or other justification, with clear reference to an attached exhibit;
  - b. An identification of what persons or segment of the public would be affected and how they would be affected; and
  - c. If the petitioner is a public agency, a summary of relevant issues raised in any public hearing, or as written comments offered by the public;
6. For a review of an existing Board practice or substantive policy statement alleged to constitute a rule, the reasons the existing Board practice or substantive policy statement constitutes a rule and the proposed action requested of the Board;
7. For an objection to a rule based upon the economic, small business or consumer impact, evidence that:
  - a. The actual economic, small business, or consumer impact significantly exceeded the impact estimated in the economic, small business, and consumer impact statement submitted during the making of the rule; or
  - b. The actual economic, small business, or consumer impact was not estimated in the economic, small business, and consumer impact statement submitted during the making of the rule and the actual impact imposes a significant burden on persons subject to the rule; and
8. The signature of the person submitting the petition.

**R4-20-124. Public Comments**

- A. On or before the close of record, a person may comment upon a rule proposed by the Board by submitting written comments to the Board.
- B. The Board considers a written comment submitted on the date it is received by the Board, except if a comment is mailed the date of receipt is the postmark date.
- C. The Board shall consider all written comments.

**R4-10-125. Oral Proceedings**

- A. A person requesting oral proceedings as prescribed in AR.S. § 41-1023, shall:
  1. File the request with the Board;
  2. Include the name and current address of the person making the request; and
  3. Refer to the proposed rule and include, if known, the date and issue of the Arizona Administrative Register in which the notice was published.
- B. The Board shall record an oral proceeding either electronically or steno graphically, and any cassette tapes, transcripts, and written comments submitted during the proceeding shall become part of the official record;
- C. The presiding officer shall utilize the following guidelines to conduct oral proceedings:
  1. Registration of attendees. Registration of attendees shall be voluntary.
  2. Registration of persons intending to speak. Registration information shall include the person's name, representative capacity, if applicable, a notation of the person's position with regard to the proposed rule and the approximate length of time the person wishes to speak.
  3. Opening of the record. The presiding officer shall open the proceeding by identifying the rules to be considered, the location, date, time, and purpose of the proceeding, and present the agenda;
  4. A statement by Board representative. A Board representative shall explain the background and general content of the proposed rules;
  5. A public oral comment period. The presiding officer may limit comments to a reasonable time period, as determined by the presiding officer; and to prevent undue repetition.
  6. Closing remarks. The presiding officer shall announce the location where written public comments are to be sent.

**Notices of Proposed Rulemaking**

**R4-20-126. Petition for Delayed Effective Date**

A person wanting to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the Board. The petition shall contain:

1. The name and current address of the person submitting the petition;
2. Identification of the proposed rule;
3. The need for the delay, specifying the undue hardship or other adverse impact the may result if the request for a delayed effective date is not granted, and the reasons why the public interest will not be harmed by the later date; and
4. The signature of the person submitting the petition.

**R4-20-127. Written Criticism of Rule**

- A. Any person may file a written criticism of an existing rule with the Board.
- B. The criticism shall clearly identify the rule and specify why the existing rule is inadequate, unduly burdensome, unreasonable, or otherwise improper.
- C. The Board shall acknowledge receipt of a criticism within 15 days and shall place the criticism in the official record for review by the Board under A.R.S. § 41-1056.

**Table 1. Time-frames (in days)**

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Approval to Take a Dispensing Optician Examination (R4-20-102)	A.R.S. § 32-1682	90	30	60
License by Examination (R4-20-102)	A.R.S. § 32-1682; A.R.S. § 32-1684	60	30	30
License by Comity (R4-20-107)	A.R.S. § 1683	90	30	60
Optical Establishment License R4-20-110	A.R.S. § 32-1684.01	30	10	20
<u>Optician's License Renewal (R4-20-109)</u>	<u>A.R.S. § 32-1682</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>Establishment License Renewal (R4-20-115)</u>	<u>A.R.S. § 32-1684.01</u>	<u>60</u>	<u>30</u>	<u>30</u>

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 10. DEPARTMENT OF ECONOMIC SECURITY  
THE JOBS PROGRAM**

**PREAMBLE**

**1. Sections Affected**

**Rulemaking Action**

Notices of Proposed Rulemaking

R6-10-101	Amend
R6-10-101.01	New Section
R6-10-102	Amend
R6-10-103	Amend
R6-10-104	Amend
R6-10-105	Amend
R6-10-106	Amend
R6-10-107	Amend
R6-10-108	Amend
R6-10-109	Amend
R6-10-110	Amend
R6-10-111	Amend
R6-10-112	Amend
R6-10-113	Amend
R6-10-114	Amend
R6-10-115	Amend
R6-10-116	Amend
R6-10-117	Amend
R6-10-118	Amend
R6-10-119	Amend
R6-10-120	Amend
R6-10-121	Renumber
R6-10-121	Amend
R6-10-122	Renumber
R6-10-122	New Section
R6-10-123	Renumber
R6-10-123	Amend
R6-10-124	Renumber
R6-10-124	Amend
R6-10-125	Renumber
R6-10-125	Amend
R6-10-126	Renumber
R6-10-126	Amend
Article 3	Amend
R6-10-301	Amend
R6-10-302	Amend
R6-10-303	Amend
R6-10-304	Amend

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 41-1954(A)(3), 41-1954 (A)(1)(c)

Implementing statutes: A.R.S. §§ 46-134 and 46-299

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

None

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Beth Broeker  
Address: 1789 W. Jefferson  
Site Code 837A  
Phoenix, AZ 85007  
Telephone: (602) 542-6555  
Fax: (602) 542-6000  
E-mail: [bbroeker@mail.de.state.az.us](mailto:bbroeker@mail.de.state.az.us)

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Department is amending these rules to make them consistent with current policy and practice, and in response to the *Olea v. Clayton* lawsuit and settlement agreement. The Jobs Program provides assistance to eligible TANF cash assistance recipients to achieve economic independence through employment. The Jobs Program helps, through services and training, to identify and remove barriers that can prevent individuals from finding and maintaining employment. The Jobs Program also determines whether to reduce or terminate the TANF cash assistance grant if an individual fails to comply, without good cause, with the federally mandated work activities.

**Notices of Proposed Rulemaking**

- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review the study, all data underlying each study, and any analysis of the study and other supporting material.**

The agency did not review any studies relating to this rule.

- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state.**

Not applicable

- 8. The preliminary summary of the economic, small business and consumer impact:**

The Jobs Program provides assistance to eligible TANF cash assistance recipients to achieve economic independence through employment. The Jobs Program helps, through services and training, to identify and remove barriers that can prevent individuals from finding and maintaining employment. The Jobs Program also determines whether to reduce or terminate the TANF cash assistance grant if an individual fails to comply, without good cause, with the federally mandated work activities.

Funding for the Jobs Program comes through TANF Block Grant Federal and State Maintenance of Effort (MOE) fund. Arizona's minimum basic MOE for a fiscal year is 75 percent of its historic State expenditures. Arizona's annual cost of operating the Jobs Program in SFY 2003 was \$27,181,481, which includes \$11,709,580 administrative costs and \$15,471,890 for participant services. The program uses a total of 277.20 FTEs.

For SFY 2003, the Jobs Program served almost 33,000 participants. As of March 2004, Job had already served well over 24,000 participants during SFY 2004.

The Jobs Program reaches all of Arizona except the areas served by the Native Employment Works (NEW) Program, and the Tribal TANF Program.

The percentage of TANF recipients who are placed in a sanctioned status has remained constant, even with recent policy changes to improve due process procedures. Approximately 2-3% of the TANF case load was sanctioned prior to the implementation of the policy changes, while 2.66% of the TANF case load was sanctioned as of December 2003. Each month, approximately 240 Jobs participants statewide reach the 100% sanction level and have their TANF cash assistance case closed.

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**TANF Work Participation Rate Data FFY '97 – '03**

Arizona is required to meet work participation rates as defined by the federal regulations and the Arizona TANF State Plan. Built into the federal law is a case load reduction credit that reduces the targeted rate for the year by the decline in the Cash Assistance case load. If a state fails to meet the work participation rate, the state is subject to a penalty of five percent of the state's yearly TANF grant amount and an increased state MOE requirement.

TANF All Family Rate					
FFY	Arizona's Rate	Federal Work Participation Rate	Rate after Case Load Reduction Credit	Met Required Rate	Met Adjusted Rate
1997	26.9%	25%	16.1%	Y	Y
1998	30.2%	30%	8.7%	Y	Y
1999	32.1%	35%	0.0%	N	Y
2000	39.7%	40%	0.0%	N	Y
2001	32.9%	45%	0.0%	N	Y
2002	25.9%	50%	4.8%	N	Y
2003	13% *	50%	13% *	-	-
2004	N/A	50%	25% *	-	-

\* - These rates are estimates from the Department as the U.S. Department of Health and Human Services has not yet completed their final calculations for the Arizona figures.

Two Parent Families are broken out from the All Family category and are also reported to the federal agency. Below is the TPEP information reported from Arizona.

*Arizona Administrative Register / Secretary of State*

**Notices of Proposed Rulemaking**

TANF Two Parent Rate					
FFY	Arizona's Rate	Federal Work Participation Rate	Rate after Case Load Reduction Credit	Met Required Rate	Met Adjusted Rate
1997	68.8%	75%	66.1%	N	Y
1998	76.6%	75%	53.7%	Y	Y
1999	88.4%	90%	48.9%	N	Y
2000	67.6%	90%	41.5%	N	Y
2001	60.2%	90%	41.2%	N	Y
2002	52.2%	90%	44.8%	N	Y
2003	53% *	90%	53% *	-	-
2004	N/A	90%	65% *	-	-

\* - These rates are estimates from the Department as the U.S. Department of Health and Human Services has not yet completed their final calculations for the Arizona figures.

Arizona's Performance Outcomes

SFY 1999 through 2003

Participants	SFY 1999	SFY 2000	SFY 2001	SFY 2002	SFY 2003
Served	25,209	23,802	23,290	23,818	32,008
Placed in Employment	9,604	9,950	12,405	12,513	15,490
% Placed	38%	42%	53%	53%	48%
Avg. Wage at Placement	\$6.59	\$6.99	\$7.38	\$7.39	\$7.75
Retention Rate	45%	45%	46.3%	46.9%	46.7%

Data Source: DES Jobs Administration Management Indicators

Arizona's Welfare Case load\*

June 2000 through Most Current

	June 2000	June 2001	June 2002	June 2003
# Of Families	31,897	33,446	40,599	49,275
Difference	-	1,549	7,153	8,676

\*- Arizona's Welfare Case Load continues to increase.

Data Source: ACF Web Site on U.S. Welfare Case Load Information - [www.acf.hhs.gov](http://www.acf.hhs.gov)

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Beth Broeker, Rules Analyst  
 Address: 1789 W. Jefferson, Site Code 837A  
 Phoenix, AZ 85007  
 Telephone: (602) 542-6555  
 Fax: (602) 542-6000  
 E-mail: [bbroeker@azdes.gov](mailto:bbroeker@azdes.gov)

**10. The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceed-**

Notices of Proposed Rulemaking

**ing is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**

The Department will conduct an oral proceeding on the proposed rule if a written request is submitted within 30 days after the date this notice is published to the person named in item #4. The Department will accept written comments on the proposed rule for at least 30 days following publication of this notice.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 10. DEPARTMENT OF ECONOMIC SECURITY  
THE JOBS PROGRAM**

**ARTICLE 1. JOBS: GENERAL PROVISIONS**

Section

R6-10-101.	Definitions
<u>R6-10-101.01</u>	<u>Applicability</u>
R6-10-102.	Work Requirement
R6-10-103.	<del>Tribal JOBS-Welfare-to-Work Program</del>
R6-10-104.	<del>Selection for Participation in Jobs Program; Notification</del>
R6-10-105.	<del>Orientation and Initial Appointment</del> <u>Jobs Introduction Meeting</u>
R6-10-106.	<del>Temporarily Deferred Determinations</del> <u>Temporary Deferrals</u>
R6-10-107.	<del>Self-assessment</del> <u>Participant Assessment; Referral</u>
R6-10-108.	Employment Plan
R6-10-109.	<del>Participation in</del> Primary Activities
R6-10-110.	<del>Participation Deemed to Be Meeting that Meets</del> the Work Requirement
R6-10-111.	<del>Participation in</del> Secondary Activities
R6-10-112.	Job Search and Job Readiness Activities <u>Assistance</u>
R6-10-113.	<u>On-the-job Training (OJT)</u> <del>OJT</del>
R6-10-114.	Work Experience
R6-10-115.	Community Service Programs
R6-10-116.	Vocational Educational Training
R6-10-117.	High School, GED Preparation, and Education Directly Related to Employment
R6-10-118.	Transportation-related Expenses
R6-10-119.	Support Services
R6-10-120.	<del>Issue Resolution Procedures; Issues Involving Participants</del> <u>Participant Complaint Resolution</u>
<u>R6-10-121.</u> <del>R6-10-122.</del>	<u>Failure to participate; Good Cause Exceptions Reasons; Verification; Establishment of Good Cause</u>
<u>R6-10-122.</u>	<u>Services to Address Barriers to Participation</u>
<u>R6-10-123.</u> <del>R6-10-124.</del>	<u>All Families Except TPEP Families; Failure to Participate; Sanctions Sanction Process</u>
<u>R6-10-124.</u> <del>R6-10-123.</del>	<u>TPEP: Failure to Participate; Withholding</u>
<u>R6-10-125.</u> <del>R6-10-124.</del>	<u>Subsidized Employment - JOBSTART</u>
<u>R6-10-126.</u> <del>R6-10-125.</del>	<u>Employer Participation - JOBSTART</u>

**ARTICLE 3. JOB DISPLACEMENT GRIEVANCE PROCEDURES**

Section

R6-10-301.	Definitions
R6-10-302.	<del>Grievance - Regular Employees; Employer</del> <u>Job Displacement</u>
R6-10-303.	Grievance Process
R6-10-304.	Further Appeal

**ARTICLE 1. JOBS: GENERAL PROVISIONS**

**R6-10-101. Definitions**

The definitions in A.R.S. § 46-101 and the following definitions apply to this Chapter:



Notices of Proposed Rulemaking

1. "AHCCCS" means the Arizona Health Care Cost Containment System.
2. ~~"All families" means all families, except TPEP, receiving cash assistance payments.~~
2. "Assessment" means the evaluation of a participant by a case manager, with the assistance of the participant, to determine employment potential, as well as services necessary to remove barriers to employment. The case manager will use the assessment to develop the participant's employment plan.
3. "At risk" means an individual who is either expecting a child or has a dependent child and is vulnerable to becoming TANF dependent based on one or more of the following factors. The individual:
  - a. Has reading or math skills that are at or below 8.9 grade level;
  - b. Has dropped out of school;
  - c. Has a criminal record;
  - d. Is homeless or a run-away youth;
  - e. Has a mental or physical disability;
  - f. Is pregnant;
  - g. Is a victim of domestic violence;
  - h. Has received services from a domestic violence shelter;
  - i. Is income eligible for TANF;
  - j. Has a WIA service delivery area designated barrier;
  - k. Is a displaced homemaker;
  - l. Is eligible for WIA programs
  - m. Is attending school; or
  - n. Other similar factors that place the family at risk.
4. "Barrier" means a circumstance that, if not addressed, may prevent or delay participation in work activities. A barrier includes one or more of the following circumstances, or any similar circumstance:
  - a. A temporary physical or mental condition, including behavioral health issues of the participant or the participant's family member for whom the participant is the primary caregiver;
  - b. A physical or mental disability of the participant or the participant's family member for whom the participant is the primary caregiver;
  - c. A lack of transportation;
  - d. A lack of child care;
  - e. Limited English proficiency;
  - f. A threat of domestic violence toward the participant, the participant's family member, or the caregiver for a minor child, if the threat interferes with the participant's ability to participate in work activities;
  - g. Illiteracy; insufficient education; lack of vocational skills; or
  - h. An on-going family crisis that interferes with the participant's ability to participate in work activities.
- 3.5. "Calendar week" means 7 consecutive days beginning on Saturday.
- 4.6. "Calendar year" means a 12-month period beginning January 1 and ending December 31.
7. "Case manager" means the Jobs employee who determines the needs of an individual requesting or receiving services through Jobs.
8. "Case Management" means the process through which Jobs determines the needs of the participant requesting or receiving services through Jobs. Appropriate services or benefits for participants are identified, planned, obtained, provided, recorded, monitored, and terminated, and follow-up is provided, as necessary and subject to budgetary constraints, in accordance with A.R.S. § 46-299.
- 5.9. "Cash assistance program" means the state Temporary Assistance for Needy Families program established by Public Law 104-193, Section 407 (1996) 42 USC § 601 et seq.
10. "Community resource" means a community, faith-based, or non-profit organization that provides services to the general public at no cost to the participant or Jobs.
- 6.11. "Community service programs program" means an unpaid work activities activity that which provide provides a service to the community or an organization.
12. "Complaint" means a formal accusation or charge expressing dissatisfaction or a grievance with a service provider, an agency, or a Jobs action or decision.
13. "Day" means a calendar day unless otherwise specified. If, under rule or statute, a deadline falls on a weekend day or a holiday, Jobs shall consider the deadline to fall on the next business day.
- 7.14. "DES" "Department" means the Arizona Department of Economic Security, which is sometimes referred to as "the Department."
- 8.15. "Education directly related to employment" means remedial education, classes leading to a GED or high school diploma, and English for Speakers of Other Languages (ESOL). for individuals who have not attained a high school diploma or GED.
- 9.16. "Employment plan" means the agreement document described in R6-10-108 R6-10-107, between the participant and the Program, describing which lists the steps required of the participant, and the services to be provided by Jobs, and

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- the referrals made to address barriers to participation ~~needed~~ to transition ~~a client~~ the participant to economic independence.
17. "Employment services" means vocational educational training, education directly related to employment, job skills training, and other similar training or education provided by a service provider or community resource to assist a participant in obtaining employment.
- ~~10-18.~~ "FAA" means the Family Assistance Administration, which is the an administrative unit within the DES Department's Division of Benefits and Medical Eligibility responsible for providing cash assistance to eligible persons.
- ~~11-19.~~ "Fails to participate," or "failure to participate," means that a participant has not done 1 or more of the following, absent good cause:
- a. Complied with met JOBS requirements for orientation, assessment, employment plan development, job readiness assistance activities, compliance with
  - b. Complied with the terms of the participant's employment plan, or
  - c. participation Participated in work activities.
- ~~12-20.~~ "Full-time employment" means employment that is 40 hours per week or, if less, is regarded as full-time for a specific industry.
21. "Functionally incapable" means a person who suffers a continuing inability to function in daily life activities due to life circumstances, including past physical or sexual abuse, insufficient education, nonexistent vocational skills, episodic depression, or emotional dysfunction.
- ~~13-22.~~ "GED" means general equivalency degree, which is a certificate awarded upon completion of a series of 5 tests that demonstrate high school skills equivalency.
23. "Good cause" means one or more of the circumstances listed in R6-10-121.
24. "Health care professional" means a licensed physician, registered nurse, or a licensed physician's assistant.
25. "Immediate threat" of domestic violence means a domestic violence situation that, in the perception of the participant, is physically, mentally, or emotionally dangerous or harmful to the participant or any child living with the participant.
- ~~14-26.~~ "Job readiness assistance" means all activities involving the Department and the participant that prepare a participant for work. These activities include: completion of an assessment, any additional assessments under R6-10-107(E), and an employment plan; attendance at the Jobs Introduction Meeting; participation in an a-structured employment preparation program, which includes life skills, employment, and job retention skills training; and any other Program requirement under this Article or a statute pertaining to assisting a participant in preparing for and obtaining employment.
- ~~15-27.~~ "JOBS" "Jobs" means the administrative unit within the DES Department's Division of Employment and Rehabilitation Services that which is responsible for administration of the JOBS Jobs Program, including providers under contract with the Department that provide Jobs case management and employment services.
- ~~16-28.~~ "Job search" means a structured activity in which participants are required to actively seek employment by identifying employment opportunities, applying for employment, and participating in employment interviews.
- ~~17-29.~~ "Job skills training" means training opportunities that which enable enables a participant to become proficient in an occupation or skill necessary to meet the participant's employment goal.
30. "Jobs Program services" means ongoing case management services offered to participants by Jobs.
- ~~18-31.~~ "JOBSTART" means the state's Department's subsidized employment work activity in the public and private sectors.
- ~~19-32.~~ "JOBSTART employment" means the subsidized employment work activity for which participants are hired.
- ~~20-33.~~ "Licensed physician" means:
- a. Medical doctors,
  - b. Doctors of osteopathy,
  - c. Doctors of naturopathic medicine,
  - d. Chiropractors,
  - e. Psychiatrists, ~~or~~
  - f. Board-certified psychologists,
  - g. Other personnel authorized to act on the physician's behalf.
- ~~21.~~ "Making satisfactory progress" means that a participant is meeting, on a periodic basis, a consistent standard of progress based upon standards established by the institution or program, and approved by JOBS in which the participant is enrolled for educational or training activities.
34. "Mailing date" means one day after the date printed on the notice.
- ~~22-35.~~ "OJT" means on-the-job training, which is a paid training opportunity generally provided at a worksite for a specified period.
- ~~23-36.~~ "Participant" means the same as A.R.S. § 46-101(15), and includes any recipient selected to participate in the Jobs Program, a cash assistance recipient who is registered with JOBS to participate in the Program.
- ~~24-37.~~ "Primary activities activity" means a work activities activity that which count counts toward the work requirement.

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- 25-38. "Program" means the ~~JOBS~~ Jobs Program, as authorized by A.R.S. § 46-299.
39. "Program Administrator" means the Program Administrator of the Employment Administration.
- 26-40. "Recipient" ~~means has the meaning in A.R.S. § 46-101(17), and includes an individual who received assistance or services but is no longer eligible for cash assistance because of statutory time limits, an individual receiving cash assistance payments through the cash assistance program administered by the FAA.~~
- 27-41. "Regular employee" means an unsubsidized individual currently employed by an employer.
- 28-42. "Sanction" means a reduction or termination of cash assistance, for all families, except TPEP families, who fail to participate ~~or comply with in the Jobs Program requirements~~ without good cause.
- 29-43. "Satisfactory attendance in high school or GED activities" means that a participant who has not completed high school or received a GED is attending high school or participating in GED activities and meeting attendance requirements established by the school or GED program.
- 30-44. "Satisfactorily participates in education directly related to employment" or "satisfactory progress" means that a participant is meeting, on a periodic basis, a consistent standard level of progress based upon standards established by the educational institution or program, and approved by JOBS Jobs, in which the participant is enrolled for educational or training activities.
- 31-45. "Secondary ~~activities~~ activity" means a work activities activity that ~~count~~ counts toward the work requirement only after meeting the required hours in primary activities.
46. "Services" means Jobs Program services, community resources, employment services, support services, or any other available service, subject to budgetary constraints.
47. "Service provider" means the entity that is responsible for providing services to clients. This includes Jobs staff, an agency or organization, public or nonprofit, or a person awarded a grant or contract by the Jobs Program to provide services to clients.
- 32-48. "Subsidized employment" means employment in a public or private sector organization that ~~which~~ receives a JOB-START subsidy to offset the cost of wages (and possibly other employer-paid benefits) of an employee.
49. "Supplemental payment" means payments made to a participant whose net wages do not equal the combined benefit amount of cash assistance and food stamps for which they are eligible.
- 33-50. "Support services" means services provided to ~~a JOBS Jobs participants~~ participant ~~that~~ which facilitate the participant's ability enable them to participate in work activities, ~~to~~ accept and maintain employment, and ~~to~~ successfully make the transition to employment. Examples of support services include child care and transportation.
51. "Temporary Assistance for Needy Families" or "TANF" means the same as A.R.S. § 46-101(22).
- 34-52. "Teen custodial parent" means a parent age 13 through 19 years, who is caring for ~~that the~~ parent's own child.
- 35-53. "TPEP" means the Two-Parent Employment Program ~~for~~ that provides cash assistance for 2-parent families;
- a. With at least one child in common;
  - b. ~~in In~~ in which both parents are able to work ~~neither parent is permanently disabled;~~ and
  - c. In which the primary wage-earning ~~wage-earning~~ parent is unemployed or underemployed.
- 36-54. "Transportation-related expenses" means ~~an allowance for transportation expenses~~ travel costs that a participant ~~may be incurred by a participant will incur as a result of participating because of participation in JOBS the Jobs Program.~~
- 37-55. "Unaffordable" child care means that child care is not affordable to a family because the cost of care is more than what ~~DES the Department~~ will pay.
- 38-56. "Unavailable" child care means that:
- a. ~~Child care providers are located more than 1 ½ hours 1 way in total travel time from the recipient's home to the child care provider, and to work, after exploring all modes of transportation, including walking; The location of a child care provider is at a distance that requires a one-way travel time by vehicular transportation equal to or greater than 1 hour, measured from the participant's residence to the child care provider and then to work, or if walking, a distance that requires a one-way travel time equal to or greater than 1/2 hour, measured in the same manner.~~
  - b. Child care providers do not have available slots or vacancies;
  - c. Child care providers cannot provide services to a child with a disability ~~disabled or handicapped child with who~~ has special needs;
  - d. Child care providers related to the child are unavailable or unwilling to provide care; or
  - e. Child care is available through a non-relative provider, ~~as defined in A.R.S. § 46-801(11)~~ but the provider is unwilling to apply for DES certification.
  - f. A child age 13 or more requires adult supervision:
    - i. Due to a disability, which includes mental health or other health-related issues;
    - ii. Because the child would be harmful to himself, herself, or others if left alone; or
    - iii. Because the child is on court-ordered probation that requires the child to remain in the home or under house arrest.
- 39-57. "Unsubsidized employment" means all paid employment in the public or private sector except JOBSTART or OJT.

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- 40-58. "Unsuitable" child care means that child care is available through a ~~relative~~ provider, but the ~~recipient participant~~ declares in writing that the provider is ~~inappropriate~~ unsuitable based on factors, such as that the ~~relative~~ provider:
- Has a history of child neglect or abuse;
  - Is experiencing domestic violence;
  - Has a history of serious crime;
  - Is a drug abuser;
  - Has an emotional, mental, or physical condition ~~which that~~ prevents the ~~relative~~ provider from providing safe care; ~~or~~
  - Resides in a home ~~which that~~ is unsafe for children, ~~or~~
  - Possesses similar attributes that render the provider unsuitable to furnish child care services.
59. "Verification" means any documentation that substantiates an individual's claim.
- 41-60. "Vocational educational training" means training ~~directly related to a career or occupation and which results in a degree or certificate~~ intended to result in a degree, certificate, or license. Vocational educational training includes hours spent studying for vocational coursework, as provided in R6-10-116(E). Examples of vocational educational training includes postsecondary education, as limited by A.R.S. § 46-299(B), and also includes training in such professions as carpentry, auto mechanics, nursing, or certified public accountancy.
61. "WIA" means the federal Workforce Investment Act of 1998.
62. "WIA local workforce investment area designated barrier" means that a participant has a barrier to employment as determined by a WIA service provider.
- 42-63. "Withholding" means ~~withholding retention~~ of semi-monthly TPEP cash assistance checks, for TPEP parents who fail to participate or comply with Jobs Program requirements without good cause.
- 43-64. "Work activities" means ~~the following activities that are countable toward the federal work participation rate as prescribed in Public Laws 104-193, Section 407 (1996) § 42 U.S.C. 607:~~
- Unsubsidized employment;
  - Subsidized private or public sector employment;
  - Work experience;
  - On-the-job training;
  - Job search and job readiness assistance;
  - Community service programs;
  - Vocational educational training;
  - Job skills training directly related to employment;
  - Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;
  - Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate; as described in A.R.S. § 46-101(23) 46-101(24)(j).
- 44-65. "Workday" means Monday through Friday, excluding Arizona state holidays.
- 45-66. "Work experience" means unpaid work in the public or private sector that helps a participant establish a good work record and develop good work habits and skills, and provides opportunities for the participant to transition into paid employment.
- 46-67. "Work requirement" means the minimum number of hours required for a Jobs participant ~~all families and 2-parent families to participate in work activities as a condition of eligibility for cash assistance, as prescribed in Public Law 104-193, Section 407 (1996), 42 U.S.C. § 607, not including any later amendments or editions, which is incorporated by reference in this rule. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 W. Jefferson, Phoenix, Arizona and in the office of the Secretary of State, Public Service Department, 1700 W. Washington, Phoenix, Arizona.~~

**R6-10-101.01 Applicability**

The rules in this Chapter apply to all Jobs service providers.

**R6-10-102. Work Requirement**

- A. ~~As a condition of eligibility~~ To remain eligible for cash assistance, a recipient shall participate in work activities unless the recipient ~~satisfies~~ is governed by subsection (B).
- B. ~~JOBS Jobs~~ shall not require ~~the following a recipients~~ recipient of cash assistance or a participant in the Jobs Program to participate in work activities if either is:
- ~~The recipient is already meeting~~ Already complying with the work requirement.
- ~~The recipient is a~~ A dependent child ~~under less than~~ age 16 or is age 16 through 18 and attending school.
  - ~~The recipient is temporarily~~ Temporarily deferred from the work requirement, as prescribed in R6-10-106.
  - Temporarily excused from participating in a work activity, under R6-10-121(B).

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- C. ~~JOBS Jobs~~ shall assign all ~~recipients~~ participants, other than those listed in subsection (B), to work activities for at least ~~the minimum number of 35 hours per week or more as required to meet the federal work requirement rate.~~
- D. ~~JOBS Jobs~~ may require ~~recipients, who are required to participate and a participant who has have~~ not been temporarily deferred; to participate in work activities for at least up to 5 hours more per week in work activities than the minimum number of hours required to meet the work requirement, if required by an employer.
- E. The Department shall impose a sanction, as provided at ~~in R6-10-121~~ R6-10-123, or a withholding, as provided at ~~R6-10-123~~ R6-10-124, if a ~~recipient~~ participant who is required to ~~participate~~ fails to participate in work activities fails to do so without good cause, as defined in ~~R6-10-122~~ R6-10-121.
- F. ~~JOBS Jobs may shall~~ permit a recipient who is already ~~meeting~~ complying with the work requirement to ~~volunteer to voluntarily~~ participate in ~~JOBS, the Jobs Program-, under the following conditions:~~
1. ~~A volunteer shall receive JOBS Jobs shall provide Jobs Program services on a first-come, first-served basis, to the extent that resources permit, except that Jobs shall give priority to volunteers who are nearest to reaching the 24-month 60 month lifetime time limit for cash assistance shall receive priority.~~
  2. ~~JOBS Jobs shall not sanction a volunteer who fails to participate in work activities without good cause. However, a the volunteer who fails to participate without good cause shall lose Jobs Program priority status for participation in the Program. Good cause, for For the purpose of this subsection, "good cause" means + one of the circumstances described in R6-10-122.~~

**R6-10-103. Tribal ~~JOBS-Welfare-to-Work Program~~**

~~JOBS Jobs~~ shall not serve ~~a person an individual~~ who is eligible to receive assistance through a tribal cash assistance program or services through a Tribal ~~JOBS~~ program similar to Jobs.

**R6-10-104. Selection for Participation ~~in Jobs; Notification~~**

- A. ~~JOBS may select a recipient, other than a TPEP parent, for services according to program priorities which are based on serving those at risk of losing cash assistance due to time limits or becoming long term welfare dependents. In selecting recipients to participate in the Jobs Program, Jobs shall give priority to recipients who are:~~
1. At risk of losing cash assistance due to time limits, or
  2. At risk of becoming long term welfare dependents.
- B. ~~JOBS Jobs~~ shall consider the following factors when determining selection priorities:
1. The number of months a recipient has received cash assistance,
  2. Whether the recipient is a teen-custodial parent, and
  3. Sanction status.
- C. ~~JOBS shall notify a recipient, in writing or in person, who has been selected to participate in the Program of the requirement to attend an initial interview appointment JOBS. The notice shall include:~~
1. The date and time of the appointment, and the address of the JOBS office where the interview will be held;
  2. The procedure for rescheduling the initial interview appointment; and
  3. The penalty for failing to comply with the initial interview appointment requirements, as prescribed in R6-10-121.
- ~~D.C.~~ ~~JOBS Jobs~~ shall begin Jobs Program services to for a sanctioned parent or a TPEP parent individual at the time the parent individual reports to the JOBS a Jobs local office.

**R6-10-105. Orientation and Initial Appointment ~~Jobs Introduction Meeting~~**

- ~~A.~~ Jobs shall notify in writing a recipient selected to participate in Jobs of the requirement to attend a Jobs Introduction Meeting. The notice shall include:
1. The date and time of the Jobs Introduction Meeting, and the address of the Jobs local office where the Jobs Introduction Meeting will be held;
  2. That transportation, translation, and child care assistance may be available for the Jobs Introduction Meeting if requested, and the contact information to obtain available services;
  3. A provision explaining that if the recipient needs transportation, translation, or child care services to attend the Jobs Introduction Meeting, and the services are not available, the recipient will be granted good cause for not attending the Jobs Introduction Meeting under R6-10-121(B).
  4. The procedure for rescheduling the Jobs Introduction Meeting, under R6-10-105(C); and
  5. That the consequence of failing, without good cause, to attend the Jobs Introduction Meeting is progressive sanctions under A.R.S. § 46-300.
- ~~A.B.~~ The Department shall provide a program orientation to applicants prior to a cash assistance determination. A recipient selected under subsection (A) becomes a participant in the Jobs Program and shall attend a Jobs Introduction Meeting provided by Jobs. Upon request, the Department shall provide the participant with transportation, translation, and child care assistance, when services are available, to enable the participant to attend the Jobs Introduction Meeting. If a participant is unable to attend the Jobs Introduction Meeting because requested services are not available, the participant shall be granted good cause under R6-10-121(B).
- ~~B.C.~~ At the initial appointment Jobs Introduction Meeting, JOBS Jobs shall:

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1. Register the recipient participant in the Program;
  2. Ensure the recipient has completed a self-assessment as prescribed by the Program; Explain to the participant the rights and responsibilities of the participant, Jobs, and the Department's child care program, including:
    - a. That the consequence of non-compliance with the Program requirements, without good cause, is progressive sanctions under A.R.S. §46-300;
    - b. The contents and meaning of the Program sanction or withholding notices; and
    - c. The deferral and good cause procedures;
  3. Explain to the recipient the rights and responsibilities of the recipient, the Program, and the child care program; Complete privately, with the participant's assistance, an assessment of the participant;
  4. Complete privately, with the recipient participant, an employment plan that considers the recipient's participant's background and skills, any barriers to employment, and any available services that will assist in the removal of barriers to employment.
- C-D.** JOBS shall permit a recipient to reschedule an initial interview appointment only if the interview process can be completed no later than 10 days from the date of the original interview appointment date. Procedures for rescheduling the Jobs Introduction Meeting, and consequences of failure to complete Jobs Introduction meeting.
1. If a participant does not attend a Jobs Introduction Meeting as required by the Jobs Program, the case manager shall send the participant a Jobs Introduction Meeting Rescheduled Notice, to allow the participant to reschedule attendance at the meeting. The Jobs case manager shall also attempt to contact the participant by telephone, inquire as to whether other administrations have had contact with the participant, or use any other reasonable method of making contact with the participant.
  2. If the participant fails to attend the rescheduled meeting or contact the case manager by the close of business 10 calendar days after the date of the original meeting, the case manager shall initiate the good cause process described in R6-10-121. The case manager shall count the day following the date of the original meeting as day 1.
- D.** If a recipient does not complete the initial interview process within the timeframe prescribed in subsection (C), the Department shall sanction the recipient as prescribed in R6-10-121.
- R6-10-106. Temporarily Deferred Determinations Temporary Deferrals**
- A.** JOBS shall determine whether to temporarily defer a participant from participation in work activities.
- B.** JOBS shall defer a recipient, except a TPEP parent, if the recipient falls into 1 of the categories listed in this subsection:
1. A licensed physician determines that the participant is mentally or physically incapable of engaging in work activities.
  2. The recipient is a victim of domestic violence whose participation in JOBS may cause an immediate threat to the safety of the victim or the victim's child.
    - a. JOBS shall defer a victim of domestic violence for the period of time the recipient needs to make changes in circumstances that will enable the recipient to safely participate in work activities.
    - b. The deferral shall not exceed 6 months.
  3. The recipient needs to be present in the home on a continuous basis to care for a member of the family who has a physical or mental disability, as verified by a licensed physician, and no other member of the household is available or suitable to provide the care.
  4. The recipient is a teen custodial parent with a child under 12 weeks of age.
  5. The recipient is a parent, relative, or caretaker who is personally caring for a child under the age of 1 year, unless the recipient is a teen parent who does not have a high school diploma or GED.
- C.** JOBS shall temporarily defer only 1 parent in a TPEP family. JOBS shall temporarily defer a TPEP parent, if the TPEP parent:
1. Is personally caring for the TPEP parent's child who is under the age of 1 year, unless the TPEP parent is a teen custodial parent who does not have a high school diploma or GED.
  2. Is a teen custodial parent with a child under 12 weeks of age.
  3. Is personally caring for a member of the family, who is not the other TPEP parent, who has a physical or mental disability as verified by a licensed physician, and no other member of the household is available or suitable to provide the care.
  4. Has an illness of a temporary nature, as verified by a licensed physician.
- D.** JOBS shall request verification from the recipient to substantiate the recipient's claim of inability to participate in work activities due to a circumstance established in this Section.
- E.** JOBS shall determine the length of time a recipient is temporarily deferred based on verification provided by the recipient.
- A.** Jobs shall determine whether to temporarily defer a participant from engaging in work activities under A.R.S. § 46-299(A) and this Section.
- B.** Jobs shall defer a participant with a temporary or permanent disability. A participant with a temporary or permanent disability may opt to participate and receive reasonable modifications to facilitate participation, and Jobs shall not impose a sanction if the participant is then subsequently unable to participate due to the disability.

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- C.** For the purposes of this Section:
1. "Disability" means a physical or mental impairment that substantially limits one or more major life activities, and includes being mentally, physically, or functionally incapable of engaging in work activities.
  2. "Permanent disability" means a disability under subsection (1) that is expected to last for the life of the individual.
  3. "Temporary disability" means a disability under subsection (1) that is not expected to last for the life of the individual.
- D.** Jobs shall obtain verification of a temporary or permanent disability from a participant according to the terms of subsection (J) from any of the following:
- a. A health care professional;
  - b. A vocational rehabilitation consultant; or
  - c. The district medical consultant.
- E.** Jobs shall temporarily defer a participant from work activities if the participant or the participant's child is a victim of domestic violence.
1. Jobs shall grant a temporary deferral for domestic violence if:
    - a. Participation in Jobs threatens the safety of or, in the perception of the participant, causes an immediate threat of physical, mental, or emotional harm to the participant, the participant's child, or any child living with the participant; or
    - b. Due to domestic violence, the participant has been physically or emotionally harmed to such an extent that the participant is incapable of participation in Jobs.
  2. Jobs shall provide the victim of domestic violence with:
    - a. A deferral from Program requirements, under A.R.S. § 46-244 and R6-10-121, for a period of time that will enable the participant to safely participate in work activities. The maximum deferral period is 6 months. Jobs may grant additional deferrals consistent with A.R.S. § 46-299; and
    - b. A referral to appropriate and available services.
- F.** Jobs shall temporarily defer a participant who needs to be present to care for a dependent who has a disability if no other member of the household is available or suitable to provide the care. The participant shall provide a statement, obtained from an individual listed in subsection (D), regarding the dependent's disability within 15 days of the date on the deferral request. The Department may grant an extension if the participant has requested a statement from a health care professional and is unable to obtain the statement within 15 days.
- G.** Jobs shall temporarily defer a participant who is an unmarried custodial parent less than age 18 who is personally caring for a child less than 12 weeks of age.
- H.** Jobs shall temporarily defer a participant who is a parent, relative, or caretaker personally caring for a child less than one year of age, for no more than 12 months in the participant's lifetime, unless the participant is a teenaged custodial parent who does not have a high school diploma or GED.
- I.** Jobs shall temporarily defer only one parent at a time in a TPEP family. Jobs shall temporarily defer a TPEP parent, if the TPEP parent:
1. Is personally caring for the TPEP parent's child who is less than one year of age, unless the TPEP parent is a teenaged custodial parent who does not have a high school diploma or GED;
  2. Is an unmarried teen custodial parent less than 18 years of age who is personally caring for a child less than 12 weeks of age;
  3. Is personally caring for a member of the family, who is not the other TPEP parent, who has a disability, as verified by a health care professional, and no other member of the household is available or suitable to provide the care; or
  4. Has an illness that is expected to last less than 30 days, as verified by a health care professional.
- J.** Jobs shall request that a participant substantiate the participant's claim of inability to participate in work activities due to a circumstance established under this Section, and shall assist the participant as necessary to obtain the verification. Unless otherwise stated, the following are examples of acceptable verification:
1. Physician or other health care professional statement;
  2. Vocational Rehabilitation (VR) consultation report, if a physician or health care professional statement does not contain conclusive information and the participant claims a disability;
  3. Police report;
  4. Court or medical records;
  5. Newspaper article, or similar evidence of public knowledge;
  6. Statement from crisis shelter staff or witness to domestic violence;
  7. Statement from DES Child Protective Services;
  8. Statement from a third party; or
  9. Statement signed by the participant if no other verification is available.
- K.** Jobs shall determine the length of time that a participant is temporarily deferred based on the information provided under this Section.

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**R6-10-107. Self-assessment Participant Assessment; Referral**

- ~~A.~~ A participant shall have a self-assessment of employability.
- ~~B.~~ A participant shall complete, or assist in completing, a self-assessment as prescribed by the Program.
- ~~C.~~ The self-assessment shall include the participant's:
  - 1. Education and employment history;
  - 2. Skills, talents, and interests; and
  - 3. Family and other circumstances which may impact the participant's employability.
- ~~D.~~ JOBS shall consider the self-assessment factors in the employment planning process.
- A. At or following the Jobs Introduction Meeting, the case manager shall, with the assistance of the participant, complete an assessment, using a standard form, to identify any possible barriers to employability or participation in the Jobs Program. The participant shall provide, either verbally or in writing, all personal information necessary to accurately complete the assessment form. The assessment form shall include questions to determine whether the participant needs services to address:
  - 1. Past or ongoing domestic violence.
  - 2. Chemical dependency.
  - 3. Psychological or psychiatric needs.
  - 4. Education or training insufficient to obtain or sustain employment.
  - 5. Mental, physical, or functional incapacity or disability.
  - 6. Issues regarding retaining or maintaining employment.
  - 7. Inadequate housing.
  - 8. Inadequate child care, or
  - 9. Inadequate transportation.
  - 10. Other family issues that affect the individual's ability to participate in work activities.
- B. Using the information from the assessment, Jobs shall refer a participant who is identified as in need of services to available Jobs Program services or community resources. Jobs shall give priority to any service provider that furnishes services at no cost to the participant. Jobs shall refer the participant to any available community resource that provides the service, or a contracted provider, if available to address the needed service. If, after researching available options, the Case manager determines that a needed service is not available through Jobs Program services or community resources, Jobs shall not make a referral and shall grant the participant good cause for not engaging in work activities under R6-10-121.
- C. If a participant does not cooperate with the assessment process, Jobs is not required to provide the participant with referrals to service providers.
- D. Jobs shall use the information provided by the participant during the assessment to develop the employment plan described in R6-10-108.
- E. Based on the initial assessment and available resources, Jobs may determine that a participant may benefit from a more in-depth employment-focused assessment. The case manager shall determine such an assessment can be provided by an outside provider.

**R6-10-108. Employment Plan**

- A. ~~JOBS Jobs and the recipient participant shall complete an employment plan for the recipient participant that takes into consideration barriers to employment and incorporates work activities and agreed upon services offered, to ensure that so that the participant can meet work requirements are met and to ensure that the recipient transitions to move into unsubsidized employment at the earliest opportunity. JOBS Jobs shall include the following factors on in the employment plan:~~
  - 1. Employment goals,
  - 2. Work activities,
  - 3. ~~Activity begin and end dates~~ Dates for beginning and ending activities,
  - 4. ~~Support services~~ Available services offered by Jobs Program or community resources.
  - 5. A list of referrals made as a result of the participant assessment.
  - ~~5-6.~~ Signatures of the ~~recipient participant~~ and the ~~JOBS Program Specialist~~ case manager assigned to oversee provision of services to the ~~recipient participant~~. Jobs shall not sanction a participant solely for refusing to sign the employment plan.
- B. The ~~JOBS Case manager Program Specialist~~, in consultation with the ~~recipient participant~~, may revise the employment plan as ~~needed~~ necessary to ensure the participant continues to advance toward the employment goal. The case manager shall revise an employment plan:
  - 1. To address any barriers to participation identified by the case manager or the participant.
  - 2. To reflect any change in services needed by the participant, if the participant has expressed an intent to participate with the Jobs Program, as provided at R6-10-123(C), and
  - 3. At any time a participant's circumstances require a change in work activities or services.

**R6-10-109. Participation in Primary Activities**



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- A. ~~JOBS~~ Jobs shall assign a participant, unless temporarily deferred ~~as provided in under R6-10-106~~, to no less than 30 hours per week of primary activities that are most appropriate to, based on the participant's employment plan as described in R6-10-108. For the 10 remaining required work activity hours, Jobs may assign the participant to any primary activity, or any secondary activity as described in R6-10-111.
- B. ~~JOBS shall assign participants to primary activities; unsubsidized employment is the 1st priority for all participants. Unsubsidized employment is the 1st priority for a participant. Whenever possible, Jobs shall assign a participant to unsubsidized employment as the participant's primary activity.~~
- C. The following are primary activities:
1. ~~Unsubsidized employment; Job search and job readiness assistance for up to 6 weeks per calendar year;~~
  2. ~~Unsubsidized employment; Job search and job readiness assistance, as described in R6-10-112, for up to 6 weeks per federal fiscal year;~~
  3. Subsidized employment such as JOBSTART, described in R6-10-125;
  4. OJT, as described in R6-10-113;
  5. Work experience, described in R6-10-114;
  6. Community service programs, described in R6-10-115;
  7. Vocational educational training, described in R6-10-116.
    - a. If the participant is an unmarried custodial parent, provided that the state continues to meet the federally required work participation rates referenced in A.R.S. § 46-299(B);
    - b. ~~for~~ For up to 1 year 12 months, for all other participants;
  8. Satisfactory attendance in high school or GED preparation classes, described in R6-10-117, for any single teen custodial parents parent who are is a heads head of household and have has not obtained a high school diploma or GED;
  9. Education directly related to employment, described in R6-10-117, for any teen custodial parents parent who are heads is a of household and have has not obtained a high school diploma or GED; if actual participation hours equal at least the minimum hours required in primary activities.
- E. ~~The Department shall require TPEP parents to shall participate for a minimum of 3 consecutive work days in work activities before the Department authorizes issuance of the initial TPEP cash assistance payment.~~
- G. ~~The Department shall require sanctioned individuals, who wish to reestablish their eligibility for cash assistance, to reemploy with JOBS requirements by participating for a minimum of 3 days in work activities before the Department authorizes issuance of the cash assistance payment.~~

**R6-10-110. Participation ~~Deemed to be Meeting that Meets~~ the Work Requirement**

- A. ~~JOBS shall deem the~~ The following participants to be meeting meet the work requirement-;
1. A parent who is participating in work activities for at least the minimum average number of hours per week ~~as described at under R6-10-102(C).~~
  2. A parent, with a child ~~under less than~~ age 6, who participates for at least 20 hours per week in primary activities, except that only ~~1-one~~ parent in a TPEP family can meet the federal work requirement in this manner.
  3. A single, teen custodial parent ~~under less than~~ age 20 who:
    - a. Is a head of household;
    - b. Has not obtained a high school diploma or GED; and either
  - e-1. Maintains satisfactory attendance in high school or GED activities, or;
  4. ~~A single, teen custodial parent under age 20 who:~~
    - a. ~~Is head of household;~~
    - b. ~~Has not obtained a high school diploma or GED; and~~
  - e-2. Satisfactorily participates in education directly related to employment for at least the minimum number of hours required in primary activities an average of 20 hours per week during the month.
- B. A participant who falls in ~~1 one~~ of the categories ~~shown listed~~ in subsection (A), who is deemed to be meeting the work requirement, may participate in additional work activities beyond those ~~deemed to be meeting that meet~~ the work requirement.

**R6-10-111. Participation in Secondary Activities**

- A. ~~JOBS~~ Jobs may assign a participant to secondary activities ~~that are appropriate to based on information obtained through the assessment or contained in the participant's employment plan only after the participant meets required participation in primary activity hours under R6-10-109 activities.~~
- B. The following are secondary activities:
1. ~~Job search and job readiness activities assistance after that exceeds~~ the maximum of 6 weeks per federal fiscal year allowable as a primary activity;
  2. Job skills training directly related to employment;
  3. High school or GED preparation for an individual a participant (other than a single, teen custodial head parent who is a head of household) who has not attained a high school diploma or GED certificate; and

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4. Education directly related to employment for ~~an individual~~ a participant (other than a single, teen custodial parent who is a head of household) who has not attained a high school diploma or GED certificate.

**R6-10-112. Job Search and Job Readiness ~~Activities Assistance~~**

- A. ~~JOBS Based on information obtained through the assessment or contained in a participant's employment plan, Jobs may assign a participant to job search and job readiness activities assistance as a primary activity in accordance with Public Law 104-193, Section 407 (1996), 42 U.S.C. § 607.~~
- B. A participant assigned to job search and job readiness ~~activities assistance~~ as a primary activity shall participate in job search and job readiness ~~activities assistance~~ for at least the minimum number of hours required under R6-10-102 ~~participation requirement within a calendar week.~~
- C. On not more than one occasion per participant, Jobs shall permit 3 or 4 days of job search and job readiness assistance, and Jobs shall count this a full week of participation.

**R6-10-113. On-the-job Training (OJT) ~~OJT~~**

- A. ~~JOBS Based on information obtained through the assessment or contained in a participant's employment plan, Jobs may assign a participant to OJT when if other work activities have not resulted in employment and OJT is consistent with the participant's employment plan.~~
- B. ~~JOBS~~ Jobs shall approve OJT worksites and assignments ~~which that~~:
  1. Are designed to improve the participant's chances for employment, and
  2. Provide compensation in accordance with applicable wage laws.

**R6-10-114. Work Experience**

- A. ~~JOBS Based on information obtained through the assessment or contained in a participant's employment plan, Jobs may assign a participant to work experience to improve the participant's employability by providing work experience, or to meet work participation requirements.~~
- B. ~~JOBS When assigning work experience, Jobs may shall assign a participant to select~~ work experience that is consistent with the participant's employment goals set forth in the participant's employment plan and shall consider the participant's prior training and experience ~~when making an assignment to work experience.~~

**R6-10-115. Community Service Programs**

- ~~A. JOBS may assign a participant to community service programs in conjunction with other primary activities to meet participation requirements.~~
- ~~B. JOBS~~ Based on information obtained through the assessment or contained in a participant's employment plan, Jobs may assign a participant to community service programs to establish good work habits ~~when if~~ the participant is unlikely to meet work participation requirements by participating in other primary activities.

**R6-10-116. Vocational Educational Training**

- A. ~~JOBS Based on information obtained through the assessment or contained in a participant's employment plan, Jobs may assign a participant to vocational educational training, for any period of time up to a the maximum of 4-year 12 months, when if other work activities have not resulted in employment and vocational educational training is consistent with the participant's employment plan.~~
- B. ~~JOBS In addition to criteria in subsection (A), Jobs shall use the following criteria to determine if whether a participant may should be assigned to, or remain in, vocational educational training:~~
  1. The participant:
    - a. Lacks a self-supporting skill for available jobs in the participant's geographical area;
    - b. Will attend at least half-time, as defined by the institution, an educational or training facility ~~which that~~ is legally authorized, accredited, or recognized in Arizona as providing a program to prepare students for gainful employment; and
    - c. Remains in good standing with the educational or training institution and makes satisfactory progress as defined by the institution.
  2. The participant seeks the education or training activities ~~shall result in the attainment of to attain~~ skills directly related to job opportunities for self-supporting employment in a recognized occupation that does not have high turnover due to substandard wages or working conditions; ~~and~~
    - b. ~~An associate or bachelor degree, a diploma, a certificate, or a license related to employment opportunities which are or are likely to become available in the participant's geographical area.~~
- C. ~~JOBS~~ Jobs may approve, as vocational educational training, the educational or training activities of an individual who is already enrolled in ~~education educational~~, or vocational, or technical training at the time the individual is ~~registered in~~ selected for the Program.
- D. ~~JOBS~~ Jobs shall use the following criteria to determine ~~if whether~~ the educational or training activities of an individual already enrolled in education or training ~~may be is~~ approved:
  1. The individual is:

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- a. ~~Is attending~~ Attending at least half-time, as defined by the institution, an educational or training facility ~~which that~~ is legally authorized, accredited, or recognized in Arizona as providing a program to prepare students for gainful employment; ~~and~~
  - b. ~~Is in~~ In good standing with the educational or training institution and is making satisfactory progress, as defined by the institution; ~~and~~
  - e. ~~Is within 2 years of completing the program of study.~~
2. The ~~individual seeks the~~ education or training activities ~~shall to result in:~~
- a. ~~The attainment of attain~~ skills directly related to job opportunities for self-supporting employment in a recognized occupation that does not have high turnover due to substandard wages or working conditions; ~~and~~
  - b. ~~An associate or bachelor degree, a diploma, a certificate, or a license related to employment opportunities which are or are likely to become available in the participant's geographical area.~~

E. Jobs shall allow time spent studying for vocational education training coursework to count toward the work participation requirement at a rate of one hour of study time for every 2 hours of scheduled classroom time.

**R6-10-117. High School, GED Preparation, and Education Directly Related to Employment**

- A. ~~JOBS Based on information obtained through the assessment or contained in a participant's employment plan, Jobs may assign a teen custodial parent, who has not obtained a high school diploma or GED, to participate in educational activities education directly related to employment.~~
- B. ~~JOBS Jobs may assign a single, teen custodial parent under age 20, who is head of household and has not obtained a high school diploma or GED, to education directly related to employment.~~
- C. ~~JOBS Jobs may only assign an adult participant, who does not have a high school diploma or GED, to GED activities or education directly related to employment only as a secondary activity.~~

**R6-10-118. Transportation-related Expenses**

- A. ~~JOBS As budget permits, Jobs shall reimburse a participant for pay a participant, on a weekly basis, a transportation allowance expense of up to \$5.00 \$7.00 per day for each day in which the participant participates in the Program and incurs a transportation expense incurred as a result of complying with the work requirement such participation. If Jobs determines that a lack of travel expense reimbursement prevents a participant from participating in work activities, Jobs shall:~~
1. Identify an alternate work activity or mode of travel that does not require the participant to incur a travel expense; or
  2. Grant the participant good cause for failing to participate in work activities, R6-10-121(B).
- B. ~~Except for participants in subsidized employment, JOBS shall not pay transportation related expenses past the participant's 1st 4 weeks of employment or receipt of the participant's 1st paycheck, whichever comes 1st. Jobs may pay transitional transportation and post-employment education and training for up to 6 months from the date of employment if a participant's cash assistance case is closed due to employment.~~

**R6-10-119. Support Services**

- A. ~~The Department shall~~ As budget permits, Jobs may provide a participant with paid child care support services to enable participation in the Program. Jobs shall give a participant a list of available support services. Support services may include:
1. Transportation services to assist a participant with transportation expenses that may be incurred as a result of Jobs participation. Services may include:
    - a. Transportation-related expenses (TRE).
    - b. Bus tickets or passes.
    - c. Vehicle repair.
    - d. Vehicle general maintenance.
    - e. Liability insurance, or
    - f. Contracted transportation services.
  2. Health-related services not covered by AHCCCS but necessary to enable a participant to become employed or to make a determination of employability. The following are examples:
    - a. Medical examinations and tests.
    - b. Eyeglasses and other optical services.
    - c. Dental services, or
    - d. Mental health counseling.
  3. The following are examples of other optional support services:
    - a. Clothing.
    - b. Tools, equipment, or specialized garments used in specific occupations such as uniforms, hard hats, or other similar attire.
    - c. Licenses.
    - d. GED testing.

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- e. Relocation, or
- f. Shelter or utility assistance.
- B. ~~JOBS may provide a participant with other support services, through payments to DES approved service providers to enable participation in the Program. As budget permits, the Department shall provide a participant with subsidized child care and other child care related expenses to enable participation in the Jobs Program. The following are examples of other child care related expenses:~~
  - 1. Transportation to and from child care centers and to school to enable participants to participate.
  - 2. Child care registration fees, and
  - 3. Participants' co-pay obligations.
- C. ~~Support services may include, but are not limited to: As budget permits, Jobs may provide post-employment support services to participants whose TANF case is closed due to employment. The following are examples of post-employment support services:~~
  - 1. Transportation services. Health-related services which are not covered by AHCCCS and which are necessary to enable a participant to become employed or to make a determination of employability including:
    - a. Medical examinations and tests;
    - b. Eyeglasses;
    - c. Dental services;
    - d. Mental health counseling, and
    - e. Other similar services.
  - 2. Child care and related expenses. Other support services including:
    - a. Clothing;
    - b. Licenses;
    - c. Tools, equipment, and specialized garments used in specific occupations such as uniforms, hard hats, or other similar garments;
  - 3. Health-related expenses. Substance abuse rehabilitation services;
  - 4. Clothing. Short-term crisis services for housing assistance and utility deposit assistance.
  - 5. Tools, equipment or specialized garments.
  - 6. Licenses.
  - 7. GED testing.
  - 8. Relocation.
  - 9. Shelter or utility assistance, or
  - 10. Post-employment education.
- D. ~~During the 1st 30 calendar days of employment, JOBS may provide support services, which includes those listed in subsection (C).~~

**R6-10-120. Issue Resolution Procedures: Issues Involving Participants Participant Complaint Resolution**

- A. ~~When an issue arises between a participant and JOBS, JOBS shall 1st attempt to resolve the issue informally through issue resolution proceedings.~~
- B. ~~A participant or JOBS may request issue resolution proceedings by making a written request to JOBS describing the nature of the problem. If a participant makes an oral request, JOBS shall help the participant put the request in writing by completing the JOBS notice used for that purpose.~~
- C. ~~JOBS shall begin issue resolution procedures within 2 working days of the date of a participant's written request, or the date of a written notice from JOBS to the participant.~~
- D. ~~Issue resolution procedures shall terminate after 45 days, or upon JOBS' determination that the issue cannot be resolved, whichever comes 1st.~~
- E. ~~A participant shall continue to participate in the Program while issue resolution proceedings are pending. If a participant fails to participate JOBS shall direct a sanction, as provided at R6-10-121 or withholding as provided at R6-10-123.~~
- A. This Section applies to participant complaints about the Jobs Program, including complaints about service providers.
- B. Each service provider shall establish a written complaint resolution procedure that shall be posted and given to participants. The complaint resolution procedure shall include an opportunity for an informal dispute resolution meeting between the participant and the service provider, and inform the participant of the right to elevate the complaint to the Program Administrator if the participant is not satisfied with the service provider decision.
- C. A participant shall continue to participate in the Program while the complaint resolution is pending unless the participant has established a good cause reason for not participating. If a participant fails to participate, JOBS shall initiate the sanction process as provided in R6-10-123 or withholding as provided in R6-10-124.
- D. A participant shall use all applicable steps of the following process to seek a resolution of a complaint:
  - 1. The participant shall attempt to informally resolve a complaint at the lowest management level. However, if a participant believes that a complaint to the service provider would be futile, the participant may complain directly to the Program Administrator under subsection (D)(4).

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2. The participant shall submit the complaint orally or in writing to the participant's service provider. If requested, the service provider shall assist the participant with writing the complaint.
3. Upon receipt of the participant's complaint, the service provider shall respond in writing within 7 days of the date the complaint was filed. The response shall explain the reason for the decision, and the participant's right to complain to the Program Administrator.
4. If the service provider takes no action to resolve the complaint, or if the participant perceives the complaint is unsatisfactorily resolved, the participant shall submit a complaint orally or in writing to the Program Administrator.
5. The Program Administrator shall issue a written decision within 30 days after date the complaint is filed. The Program Administrator shall consider the participant's Employment Plan, applicable policy and rules, and, if applicable, the terms of the service provider's contract, in reaching a decision.

**R6-10-122.R6-10-121.Failure to participate; Good Cause Exceptions Reasons: Verification: Establishment of Good Cause**

- A.** Failure to participate. If a participant does not participate in work activities, including attendance at the Jobs Introduction Meeting, the case manager shall determine whether a barrier to participation has been identified through discussions with the participant, or information provided by the participant, and if so, whether services have been provided to address the barrier.
1. If services have not been provided to address an identified barrier, the case manager shall refer the participant to available Jobs Program Services or community resources.
  2. If services have been provided to address all identified barriers, or no barrier has been identified, the Case manager shall send the participant a Request for Good Cause Information to determine whether a good cause reason exists for the participant not to participate.
- A-B.** Good cause reasons. Good cause reasons are those deemed acceptable by JOBS which that prevent a participant from participating engaging in work activities under R6-10-102, complying with JOBS requirements, or accepting employment. The following circumstances shall constitute good cause: include:
1. The participant has a barrier to participation for which services are not available, or the participant is participating in referred services to address a barrier;
  - 1-2. The participant had a verified an illness;
  3. The participant was required to care for an ill or disabled family member;
  - 2-4. Either the participant or a dependent child had a has an verified appointment; which that could not could not be rescheduled, such as for a court-ordered appearance, medical appointment, incarceration, or other significant appointment such as an employment interview, Division of Child Support Enforcement (DCSE) related appointment, or other similar comparable appointment;
  - 3-5. The participant had a verified emergency family emergency crisis, such as loss of residence due to a natural disaster or the death of a participant's immediate family member;
  - 4-6. The participant had a temporary verified lack of transportation with no reasonable alternate means of transportation; including walking;
  7. Extreme weather made walking to childcare or work activities unreasonable for a participant who has no other form of transportation.
  - 5-8. The participant was prevented from participating due to verified severe inclement weather; conditions which prevented other persons in the area of the participant's residence from traveling.
  - 6-9. The participant provides verification that child The participant was unable to obtain child care for a child who is under the age of less than 13 years old because the child care was unavailable, unaffordable, or unsuitable;
  10. Child care is unavailable for a child age 13 or over who requires adult supervision:
    - a. Due to a disability, which includes mental or health related issues;
    - b. Because the child would be harmful to himself, herself or others if left alone; or
    - c. Because the child is on court-ordered probation that requires the child to remain in the home or under house arrest.
  11. The participant needed translation services that were not available or not provided.
  - 7-12. The participant is not capable of performing the work activity due to: assigned or the essential job functions related to the work activity due to; unsafe worksite conditions, physical demands of the position, the participant's lack of skills or knowledge required for the position, and other similar circumstances:
    - a. Unsafe worksite conditions;
    - b. Physical demands of the job;
    - c. Lack of skills, aptitude, or knowledge for the position;
    - d. Strike, lockout, or other bona fide labor dispute; or
    - e. Conditions of the participant's membership in a union representing employees in the occupation.
  8. The job offered is vacant due to a strike, lockout, or other bona fide labor dispute; or the job offered is contrary to the conditions of the participant's membership in a union governing the occupation;

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9.13. The participant provides verification that he or she is a victim or perceives himself or herself to be a victim of experiencing a domestic violence whose current situation:

- a. Threatens the safety of the participant or any child living with the participant; or
- b. Causes physical, mental, or emotional harm to the participant or any child living with the participant, episode which threatened the safety of the participant and/or the participant's child

14. The Department fails to provide the participant with services agreed upon in the Employment Plan; or

15. Other comparable circumstances beyond the participant's control, including an error by the Department.

**B.C.** Verification. JOBS shall request, and the A participant subject to subsection (A) shall provide; verification of documentation that verifies good cause within 10 calendar days of the mailing date on the Request for Good Cause Information. The case manager may obtain verification directly from the reporting source. The case manager shall, upon request, assist the participant in obtaining the documentation that verifies good cause. Verification may include includes the following:

1. Physician's Physician or other health care professional statements statement;
2. Appointment notices notice such as appointments from a courts court, FAA, and or other comparable entity similar notices;
3. Death certificates certificate;
4. Public knowledge or newspaper articles Newspaper article, or other similar evidence of public knowledge;
5. Information Document or statement from the DES Child Care Administration (CCA);
6. Police reports report;
7. Statements Statement from crisis shelter staff and/or or a witness witnesses of to the domestic violence;
8. Worksite visits; Statement from a third party; or
9. Signed participant statements statement explaining the circumstances that establish containing all factors contributing to the failure to comply good cause if no other verification is possible.

**D.** Notice.

1. If the participant establishes a good cause reason for failing to participate within 10 calendar days of the mailing date on the Request for Good Cause Information, the case manager shall not sanction the participant, and shall send the participant a notice indicating that good cause has been established. If, based on the information received from the participant, the case manager determines that a barrier exists that prevents the participant from participating, the case manager shall refer the participant to available Jobs Program services or community resources.
2. If the participant does not establish good cause within 10 calendar days of the mailing date on the Request for Good Cause Information, the case manager shall send the participant a notice indicating that good cause has not been established, and shall begin the sanction process described in R6-10-123.

**R6-10-122. Services to Address Barriers to Participation**

**A.** Identification of Barriers to Participation and Referral to Available Services.

1. A participant shall notify the participant's case manager of any barrier to participation in the Jobs Program.
2. Upon notification or personal observation that a participant has a barrier to participation, the case manager shall document the barrier, and determine whether revising the participant's employment plan would address the identified barrier. If so, the case manager shall revise the employment plan as necessary.
3. If revising the employment plan does not address the identified barrier, the case manager shall refer the participant to available community resources.
4. If no community resources are available to address the identified barrier, the case manager shall refer the participant to available Jobs Program Services.
5. If no services are available, the case manager shall grant the participant good cause for not participating, and re-evaluate the situation in 30 days to determine whether the barrier has been resolved or services have become available.

**B.** A participant shall participate in a referred service until identified barriers have been resolved, or the service is no longer available.

1. If the participant's barriers have been resolved, the participant shall participate in work activities. If the participant does not participate in work activities after the participant's barriers have been resolved, the case manager shall initiate the good cause process under R6-10-121.
2. If the participant does not participate in referred services and does not participate in work activities, the case manager shall initiate the good cause process under R6-10-121.

**~~R6-10-121.~~ R6-10-123 All Families Except TPEP Families: Failure to Participate; Sanctions Sanction Process**

**A.** ~~If an individual a participant required to participate fails to participate in work activities without good cause under R6-10-121, the case manager shall initiate the sanction process. at the JOBS initial interview, as outlined at R6-10-105, the Department shall sanction the individual.~~

**A.** Case review. Before requesting a sanction, the case manager shall review the case to determine whether all necessary steps have been taken, including barrier identification, available service referrals, and an opportunity to establish good cause. After reviewing the case and determining that a sanction is appropriate, the case manager shall submit the case to a

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Jobs supervisor for review. The Jobs supervisor shall review the case to determine whether all necessary steps have been taken before imposing a sanction, and shall approve or deny the sanction based on this review.

1. If the Jobs supervisor approves the sanction, the case manager shall sanction the participant under A.R.S. § 46-300, as provided in subsection D.
2. If the Jobs supervisor does not approve the sanction, the case manager shall review the case record and take all necessary corrective action on the case.

**B.** Notice. If a sanction is approved, at each sanction level the JOBS case manager shall send the individual participant written notification notice of the Department's intent to sanction, explaining The adverse action notice shall be timely and shall adequately explain:

1. When and how the individual failed to comply The date and the location of the alleged failure to comply;
2. The consequences of the non-compliance How or why the case manager believes the participant failed to comply,
3. The month in which the Department shall impose the sanction, and
4. The length of time that the sanction will be imposed.
- 4.5. How the individual can reemploy participant can stop the proposed sanction or reemploy if it is too late to stop the proposed sanction:-
6. The name and telephone number of a specific contact person who will provide more information to the participant about the sanction level;
7. The percentage of the sanction;
8. The benefit amount, after the sanction is imposed; and
9. The fact that the participant is required to contact a case manager by the due date listed on the notice and either participate in work activities or express an intent to participate in work activities to avoid the imposition of a sanction; and
10. That the participant has a right to request a hearing, and how to do so.

**C.** If a participant required to participate subsequently fails to participate or comply with Program work requirements or is avoiding or limiting employment, JOBS shall determine whether good cause exists as described in R6-10-122.

**C.** How a participant can avoid a sanction or have benefits restored after a sanction is imposed.

1. A participant who has received a notice that the Jobs Program intends to impose a sanction may avoid the sanction by participating in work activities, by expressing an intent to participate, or by identifying a barrier to participation within 10 calendar days from the mailing date on the notice.
  - a. The participant may express an intent to participate in work activities by contacting the participant's case manager by telephone or by appearing in person. If a barrier is identified, the case manager shall follow the process in R6-10-122.
  - b. If the participant requests a fair hearing within 10 calendar days from the mailing date of the notice, the cash grant shall not be reduced due to a sanction pending the results of the fair hearing.
2. If the participant does not respond within 10 calendar days of the mailing date of the notice, the sanction is imposed. If the participant responds after the sanction is imposed, and resumes participation, expresses an intent to participate, or identifies a barrier to participation, the Jobs Program shall restore benefits after one month of sanction. The participant may express an intent to participate or identify a barrier by contacting the case manager by telephone or in person. If a barrier is identified, the case manager shall follow the process in R6-10-122. The Jobs Program shall not require a participant to begin work activities prior to the program taking action to restore benefits.
3. Upon recompliance with the Jobs Program following a sanction, the participant shall attend a Jobs Introduction Meeting if the participant has not attended a Jobs Introduction meeting in the prior 6 months.
4. If a participant has been sanctioned 100% and the participant's Jobs case has been closed, the participant shall reapply for cash assistance to resume the Jobs Program services and work activities.

**D.** When JOBS determines that a participant required to participate fails to participate without good cause as described in R6-10-122, the Department shall sanction the participant.

**D.** Sanction levels.

The Department shall impose a sanction, which is a percentage of the original cash assistance amount, in accordance with A.R.S. § 46-300 as follows:

1. For the first instance of noncompliance, the department shall reduce the household's cash assistance grant by twenty-five per cent for one month.
2. For a second instance of noncompliance that occurs in a month other than the month in which the first noncompliance occurred, the department shall reduce the household's cash assistance grant by fifty per cent for one month.
3. For a third instance of noncompliance that occurs in a month other than the month in which the second noncompliance occurred and any instance of noncompliance thereafter, the department shall terminate the household's cash assistance grant for at least one month or until the household complies. The Jobs Program shall close the participant's case at this sanction level, and upon subsequent sanctions. The former participant shall reapply for cash assistance to resume the Jobs Program services and work activities.

**E.** JOBS shall send the participant written notification explaining:

1. When and how the participant failed to comply;

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2. ~~The consequences of the non-compliance;~~
3. ~~The month in which the Department shall impose the sanction; and~~
4. ~~How the participant can reemploy.~~

**E. Monitoring sanctioned participants.**

1. A case manager shall keep a record listing each sanctioned participant, the participant's sanction date, sanction level, benefit month, and revised benefit amount, and shall review the record each month, in addition to the participant's case record, to determine whether the next sanction level should be imposed. A Jobs supervisor shall review the case record before the initiation of any sanction action by a case manager.
2. Before imposing the 100% sanction, the case manager shall use the following methods in an attempt to contact the participant and determine whether good cause exists under R6-10-121:
  - a. A telephone call, if the participant has a telephone;
  - b. Notice by first class mail
  - c. Consultation with other programs within the Department to determine whether they have had contact with the non-compliant participant or have a current address or phone number for the participant;
  - d. Any other reasonable method to establish contact with for contacting the recipient.

~~F. At the 3rd and subsequent sanctions, JOBS shall close the participant's JOBS case.~~

~~G.F. A participant is entitled to a fair hearing, as provided at A.A.C. R6-12-1001, to contest a Department sanction of cash assistance.~~

~~H.G. A participant who wishes to appeal a sanction of cash assistance shall file a written request with the Department following the procedures in A.A.C. R6-12-1002.~~

**~~R6-10-123.~~R6-10-124. TPEP: Failure to Participate; Withholding**

- A. ~~If a TPEP parent required to participate who is a participant fails to participate or comply with Jobs Program requirements, or is avoiding or limiting employment, JOBS Jobs shall determine whether good cause exists as described under at R6-10-122 R6-10-121.~~
- B. ~~When JOBS If Jobs determines that a the TPEP parent required to participate fails failed to participate without good cause, the Department shall withhold TPEP cash assistance.~~
- C. ~~JOBS Jobs shall send the participant a timely adverse action notice that adequately explains written notification explaining:~~
  1. ~~When and how the individual failed to comply~~ The date and location of the alleged failure to participate;
  2. ~~The consequences of the non-compliance~~ How or why the case manager believes the participant failed to participate,
  3. The pay period to in which the Department shall impose the withholding, and
  4. The length of time that the withholding will be imposed,
  4. ~~5. How the individual can reemploy~~ participant can stop the proposed withholding or resume participation if it is too late to stop the proposed withholding;-
  6. The name and telephone number of a specific contact person who will provide more information to the participant about the withholding;
- D. ~~At the 3rd withholding, JOBS Jobs shall close the participant's JOBS Jobs case.~~
- E. ~~A participant is entitled to a fair hearing, as provided at A.A.C. R6-12-1001, to contest a Department withholding of cash assistance.~~
- F. ~~A participant who wishes to appeal a withholding of cash assistance shall file a written request with the Department following the procedures in A.A.C. R6-12-1002.~~

**~~R6-10-124.~~R6-10-125. Subsidized Employment - JOBSTART**

- A. ~~To be eligible to participate in for JOBSTART, a participant shall:~~
  1. ~~Be a JOBS Jobs participant,~~
  2. ~~Be receiving both cash assistance and food stamps,~~
  3. ~~Have completed a Complete Job Readiness training workshop and a preliminary job search,~~
  4. ~~Be reasonably expected to be able to Assist Jobs in assessing whether the participant can achieve benefit from enhanced employability through subsidized employment in terms of enhanced employability.~~
- B. ~~JOBS If a participant is selected for JOBSTART, Jobs shall provide a JOBSTART orientation to the participant participants.~~ The orientation shall describe JOBSTART, including:
  1. The benefits of subsidized employment;
  2. The diversion of the participant's cash assistance and food stamp benefits for wage subsidy;
  3. The consequences of failure to comply with JOBSTART requirements;
  4. The availability of, and the requirements to qualify for and obtain, supplemental payments;
  5. The fair hearing process for challenging adverse action or failure to receive a supplemental payment;
  6. The exclusion of JOBSTART wages in calculating cash assistance and food stamp benefit eligibility;
  7. The potential eligibility for advance Earned Income Credits (EIC), as allowed under the Internal Revenue Code.



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- C. ~~JOBS~~ Jobs shall make job referrals by matching a participant's skills, experience, and employment ~~goal plan~~ with a JOBSTART employer's requirements. ~~JOBS~~ Jobs shall also consider the following criteria in making JOBSTART employment referrals:
1. Whether a referral ~~will give~~ provides a participant with additional employment opportunities because of skills learned through JOBSTART employment;
  2. Whether a referral is likely to result in a permanent, unsubsidized, or full-time employment for the participant;
  3. The length and quality of training the JOBSTART employer will provide to the participant;
  4. Wages, benefits, and opportunities for advancement;
  5. The employer's turnover rate; and
  6. Other comparable or similar factors.
- D. ~~JOBS~~ Jobs shall schedule the participant for an interview with the prospective employer and notify the participant of the interview date, place, and time.
- E. The employer shall decide whether to hire a participant.
- F. A participant shall abide by an employer's regular requirements regarding:
1. Submitting an application for employment,
  2. Appearing for interviews,
  3. Providing necessary information, such as citizenship verification,
  4. Hours of employment,
  5. Attendance,
  6. Job performance,
  7. Conduct, and
  8. Other similar conditions of the employment.
- G. A participant shall ~~comply with the following JOBSTART requirements:~~
1. Sign the ~~JOBS~~ Jobs form, agreeing to abide by JOBSTART requirements;
  2. Appear for pre-referral and assessment interviews with ~~JOBS~~ Jobs staff or ~~JOBS~~ a Jobs designee;
  3. File a weekly report of employment days, hours, and pay received;
  4. Accept and maintain subsidized employment; ~~or~~
  5. ~~Establish~~ establish good cause for failing to participate, as prescribed in ~~R6-10-122~~ R6-10-121;
  6. Report changes to ~~JOBS~~ Jobs which ~~that~~ affect JOBSTART participation such as:
    - a. The need for additional support services ~~as provided at~~ under R6-10-119,
    - b. ~~Accepting~~ Acceptance or ~~refusing~~ refusal of an offer of employment offer,
    - c. Absence from or termination of employment,
    - d. Job position or function modifications, and
    - e. Other similar or comparable factors;
  7. Ensure that the participant's children between the ages of 6 and 16 receive school instruction as prescribed in A.R.S. § 15-802.
- H. At the end of each work week, a participant shall complete and sign the ~~JOBS~~ Jobs form on which the participant shall indicate ~~his or her~~ the participant's name, days and hours worked, and pay received. The participant shall obtain ~~his or her~~ the participant's supervisor's signature, or the signature of that person's designee, on the form and send the form to ~~his or her~~ the participant's ~~JOBS case manager worker~~.
- I. ~~The Department~~ Jobs shall use information on the form to determine:
1. Whether the participant is entitled to a supplemental payment ~~as provided in R6-10-125(N)~~ under subsection (N);
  2. The amount of reimbursement for JOBSTART employers ~~as prescribed in~~ under R6-10-126(H); and
  3. The participant's compliance with JOBSTART requirements.
- J. If the participant fails to send in the completed form, the Department shall ~~impose a sanction~~ initiate the sanction process, as provided in ~~R6-10-124~~ R6-10-123, or a withholding ~~as provided in R6-10-123~~ under R6-10-124 for TPEP. If the employer fails to sign the form, Jobs shall delay reimbursement payments to the employer ~~shall be delayed~~ until the employer signs the form or is terminated for the failure to sign, ~~as prescribed in R6-10-126(D)(4)~~ under R6-10-126(D).
- K. ~~Participants~~ A participant may participate in JOBSTART employment for up to ~~6~~ six months with ~~4~~ one extension of ~~3~~ three months, at the option of Jobs. If a participant's employer wishes to request ~~an extension~~ the three month extension, the employer shall make the request ~~the extension~~ in writing and shall provide the following information on which ~~JOBS~~ Jobs shall ~~base~~ consider in its decision whether to extend:
1. Name of the participant for whom the extension is requested,
  2. Position for which an extension is requested,
  3. ~~What additional~~ Additional experience or training that is needed ~~necessary~~ for the participant to achieve competency,
  4. ~~The employer's expectation for hiring~~ Whether the employer expects to hire the individual following the extension,
  5. The length of the extension, not to exceed three months, and
  6. Other similar or comparable factors indicating that an extension is necessary.
- L. Jobs shall not permit ~~the~~ total JOBSTART employment time for a participant ~~shall not~~ to exceed 9 months.

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- M.** ~~Participants~~ A participant shall comply with Jobs Program requirements, including all JOBSTART requirements, ~~as described as prescribed in this Article. If a participant fails to participate or to comply with Program these requirements, or is avoiding or limiting employment, the Department shall impose a sanction, as provided at R6-10-121, or withholding of cash assistance, as provided at under R6-10-123.~~
- N.** Each month, the Department shall make a supplemental ~~payments~~ payment to ~~participants~~ any participant whose net wages ~~did do~~ not equal the combined benefit amount of cash assistance and food stamps for which ~~they were~~ the participant is eligible.
- O.** If a participant's combined cash assistance and food stamp monthly benefit amount exceeds the amount of the participant's adjusted gross wages and supplemental payments for the same month, and the loss is due to an unpaid hour of unexcused absence as reported by the JOBSTART employer, the Department shall:
1. Presume that each unpaid hour was not for good cause;
  2. Withhold a supplemental payment to make up the difference; and
  3. Send the participant written notice of adverse action no later than 10 calendar days following the end of the benefit month. At a minimum, the notice shall include the following information:
    - a. ~~The information required for an adequate notice as described in R6-10-121(D);~~ When and how the participant failed to comply, the consequences of the noncompliance, the month in which the Department is imposing the sanction or withholding, and how the participant can reemploy;
    - b. The participant's right to provide verification of good cause for such absence, ~~as prescribed in under R6-10-122 R6-10-121,~~ and the participant's right to receive a supplemental payment if the Department finds that the participant has established good cause; and
    - c. The participant's responsibility to provide documentation of good cause to ~~JOBS~~ Jobs within 10 calendar days from the mailing date of the notice to avoid withholding of the supplemental payment pending the outcome of a fair hearing.
- P.** The Department shall provide a supplemental payment, reconciling ~~the~~ any difference, no later than 10 work days after the end of the month in which the participant establishes good cause if:
1. The participant provides verification of good cause under as described in R6-10-122(B); R6-10-121, and
  2. The verification is received by ~~JOBS~~ Jobs within 10 calendar days of the mailing date on the adverse action notice ~~was mailed.~~
- Q.** The Department shall not provide the participant with a supplemental payment, reconciling the difference, if the participant does not request a hearing or requests a hearing but waives the continuation of benefits pending the outcome of the hearing, and either does not:
1. ~~The participant does not provide~~ Provide any verification of good cause, or
  2. ~~The participant does not timely~~ Timely provide verification of good cause.
- R.** The Department shall conduct hearings on appeals of adverse action as prescribed in Article 3. Grievances are also governed by procedures provided in Article 3.

**~~R6-10-125~~ R6-10-126 Employer Participation - JOBSTART**

- A.** An employer who wants to participate in JOBSTART shall notify the ~~JOBS~~ Jobs office in the community where the employer is located. To qualify for participation, an employer shall:
1. Agree to place a participant in a full-time position;
  2. ~~Reasonably expect to offer~~ Offer the participant an opportunity for full-time, unsubsidized employment;
  3. ~~Normally~~ Not require the participant to work ~~no~~ more than an average of 40 hours per week, on a regular basis;
  4. Not place the participant in a position that will displace a regular employee;
  5. Pay wages that are substantially ~~like~~ similar to the wages paid for similar jobs, with ~~like~~ adjustments for experience and skills, but never less than the federal minimum wage;
  6. Maintain safety, health, and working conditions at or above levels generally acceptable in the industry and no less than ~~that~~ conditions of comparable jobs offered by the employer;
  7. Provide training at the worksite ~~which that~~ is necessary to meet the competency standards for the position;
  8. Provide health care coverage, sick leave, holiday, ~~and~~ vacation leave, and other comparable benefits in ~~conformance~~ accordance with the employer's rules for new employees;
  9. Provide Workers' Compensation coverage;
  10. Help the participant obtain any advance Earned Income Credit for which the participant may be eligible;
  11. Sign the agreement, as prescribed in ~~R6-10-125~~ subsection (D); and
  12. Sign the Department's certification form, as prescribed in ~~R6-10-125~~ subsection (F).
- B.** If the employer satisfies the criteria listed in subsection (A), the employer may submit ~~place~~ a job placement order with ~~JOBS~~ to Jobs. The order shall include the following information on the available position;:
1. Days and hours of work,
  2. Wages,
  3. Description of responsibilities,

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4. Benefits,
  5. ~~Opportunity~~ Any opportunity for advancement, and
  6. Other pertinent ~~job-related~~ job-related information.
- C. No employer is required to participate in JOBSTART.
- D. An employer who wants to hire a participant shall sign an agreement with the Department.
1. The employer shall affirm that the employer satisfies all of the ~~selection~~ criteria listed in ~~R6-10-125~~ subsection (A) and will continue to meet all the ~~selection~~ criteria while participating in JOBSTART.
  2. If the employer violates a JOBSTART requirement, the employer shall repay any reimbursements the employer receives after the date of the violation.
  3. The employer shall avoid conflicts of interest and the appearance of impropriety or favoritism in hiring practices, such as preferential hiring of relatives, friends, and business associates.
  4. The employer shall prepare and provide to the Department the following reports:
    - a. Each week, the employer shall verify and sign a time sheet for each participant stating:
      - i. Gross wages,
      - ii. Participant net earnings,
      - iii. Number of paid hours ~~of work~~ worked (including paid hours of leave),
      - iv. Hours for which a participant was not paid because the participant had an unexcused absence, and
      - v. Hours for which the participant was not paid because the employer reduced available work hours.
    - b. No later than the 10th workday of each calendar month following a month of work, the employer shall complete and provide to ~~JOBS~~ Jobs with a ~~1-page~~ one-page report on each participant's performance. The report shall include the ~~employer's assessment of the participant's following information:~~
      - i. Skills (competencies) gained as a result of employment;
      - ii. Ability to correctly and timely complete assignments;
      - iii. General work habits such as punctuality, absenteeism, and neatness of work area; and
      - iv. Development of effective and efficient working relationships with people, including supervisors, peers, and subordinates.
  5. An employer shall allow ~~JOBS~~ Jobs staff to schedule and make visits to the worksite, so that staff can observe a participant's work activities and interview the participant.
- E. The employer shall sign and date the agreement. A ~~JOBS~~ Jobs representative and the participant shall also sign and date the agreement.
- F. An employer who wants to participate in JOBSTART shall ~~also~~ provide ~~JOBS~~ Jobs with a completed, signed, dated, and certified form. On the form, the employer shall certify that the following information listed in this Section as is true, as to regarding the employer, and its principal officers and directors: ~~;~~
1. The employer is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency, the state of Arizona, or any other state.
  2. The employer has not, within the preceding 3 years, been convicted of or had a civil judgment rendered against the employer for:
    - a. Fraud,
    - b. Antitrust violations,
    - c. Embezzlement,
    - d. Theft,
    - e. Forgery,
    - f. Bribery,
    - g. Falsification or destruction of records,
    - h. Making false statements, or
    - i. Receiving stolen property.
- G. ~~The Department~~ Jobs shall compute an employer's reimbursement amount, based on the information the participant and employer ~~provided~~ provide under as described in R6-10-125 subsection (D)(4)(a).
- H. For each participant, ~~the employer's~~ Jobs shall not provide an employer with reimbursement for wages and employer's expenses ~~shall not exceed a wage reimbursement that is the lesser of:~~
1. The gross wages paid to the participant in the month, or
  2. \$400.
- I. ~~The Department~~ Jobs shall issue the reimbursement no later than the 25th day of the same calendar month in which the employer's report is timely received. Late receipt of the form may delay reimbursements.
- J. If ~~JOBS~~ Jobs knows or learns of information indicating that the employer's certification, ~~pursuant to R6-10-125 under subsection (F), is or has become untrue, the Department~~ Jobs shall terminate the employer's participation in JOBSTART in writing, and ~~shall not allow~~ exclude the employer ~~to participate from participation~~ in the future.
- K. ~~The Department~~ Jobs shall also terminate ~~the an~~ employer's participation in JOBSTART if the employer demonstrates ~~has shown~~ a pattern of either unjustifiably terminating participants before the completion of their training or of not offering

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unsubsidized employment to participants who have successfully completed training with the employer.

1. ~~JOBS~~ Jobs shall consider each occurrence of either circumstance in establishing the pattern.
  2. ~~JOBS~~ Jobs shall not allow the employer to participate in JOBSTART if the total number of occurrences exceed the greater of the following figures, unless the employer can establish good cause:
    - a. 2 occurrences, or
    - b. 20% of the total number of participants placed with the employer.
  3. If the employer claims good cause, the employer shall provide proof that ~~the a~~ participant failed to meet the employer's requirements, absent good cause, pursuant to ~~R6-10-124(F)~~ R6-10-125(F), and that the employer attempted to establish a reasonable alternative with the participant but was unsuccessful, due to circumstances outside the employer's control.
- L. If ~~Jobs~~ determines that an employer has violated JOBSTART requirements, ~~as prescribed in R6-10-125 subsection (A), the Department Jobs~~ shall take all of the following adverse actions against the employer:
1. Withhold any subsidized ~~payments~~ payment due the employer, following the date of the violation;
  2. Seek repayment of any ~~amounts~~ amount overpaid to the employer; and
  3. ~~Not allow~~ Exclude the employer ~~to participate any longer from participation~~ in JOBSTART, as prescribed in ~~R6-10-125 subsection (J)~~.
- M. If ~~the Department Jobs~~ plans to take adverse action against an employer, ~~the Department Jobs~~ shall send the employer a written notice of adverse action. ~~At a minimum, the~~ The notice shall include:
1. The name and address of the employer;
  2. The action taken and the reason for the adverse action;
  3. The authority for the action; and
  4. The employer's appeal rights.
- N. An employer who disagrees with the amount of an unsubsidized payment, or who is subject to adverse action as prescribed in subsection (M), may file a grievance as provided in Article 3.
- O. The Department shall conduct grievance procedures ~~pursuant~~ under to R6-10-303.

**ARTICLE 3. JOB DISPLACEMENT GRIEVANCE PROCEDURES**

**R6-10-301. Definitions**

The definitions in R6-10-101 apply ~~in~~ to this Article.

**R6-10-302. ~~Grievance—Regular Employees; Employer Job Displacement~~**

Regular employees of employers with whom ~~JOBS~~ Jobs participants are placed in unpaid or subsidized jobs may file a grievance regarding displacement as prescribed in this Article. As used in this Section, ~~“displacement” shall include assigning means assignment of a participant to a position which:~~

1. Results in the termination or reassignment of a regular employee;
2. Results in the reduction of non-overtime work, wages, or benefits ~~of~~ for a regular employee;
3. Impairs an existing contract for service or a collective bargaining agreement;
4. Fills the position of a regular employee on layoff status;
5. Creates a new position for ~~a the~~ participant ~~when the new position performs that has~~ substantially the same job functions as the position held by a regular employee ~~who is on layoff, or who is subsequently terminated;~~
6. Infringes upon the promotional opportunities of a regular employee; or
7. Fills any established, unfilled position that can be filled by a qualified, regular employee who has applied for the position.

**R6-10-303. Grievance Process**

- A. Upon request, ~~JOBS~~ Jobs shall provide information to regular employees and ~~Project~~ JOBSTART employers regarding their right to file a grievance and the ~~procedures~~ procedure for doing so.
- B. ~~The An~~ aggrieved party may seek to informally resolve a grievance at the regional level with the ~~JOBS~~ Jobs Regional Program manager, or that person's designee, or may request a fair hearing.
- C. To pursue informal resolution, an aggrieved party shall file a Departmental grievance form with the ~~JOBS~~ Jobs Regional Program Manager or designee. The form shall contain the following information:
  1. Aggrieved party's name, address, and phone number;
  2. Date of grievance;
  3. Contact person, if other than the aggrieved party;
  4. Regional Program Manager or designee, address, phone number;
  5. A description of the action ~~which~~ that is the subject of the grievance and the date of the action; and
  6. The proposed resolution.
- D. If the aggrieved party requests an informal resolution, the Department shall hold an informal resolution meeting with the aggrieved party, within 15 working days from the date the Department receives the grievance.

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- E. If a grievance is not resolved at the informal meeting, the aggrieved party may request a fair hearing with the Department of Economic Security, Office of Appeals, within ~~20~~ 30 days from the date of the informal meeting, by sending a written request for a fair hearing to the ~~JOBS~~ Jobs local office.
- F. If the aggrieved party does not choose to seek an informal resolution as prescribed in subsections (C) and (D), the aggrieved party may request a fair hearing by filing a written request with the local ~~JOBS~~ Jobs office. An employer who requests a fair hearing shall file a written request within ~~20-30~~ calendar days of the date of the adverse action notice as described in A.A.C. R6-12-1002. Upon request, ~~JOBS~~ Jobs shall assist the aggrieved party in preparing the hearing request. Assistance shall include an explanation of the aggrieved party's right to fair hearing, the fair hearing procedures, and the process.
- G. ~~The date the A request for a hearing is deemed filed shall be on the date in accordance with specified in~~ A.A.C. R6-12-1002 [NEED ACTUAL DATE FROM CA].
- H. The ~~JOBS~~ Jobs local office shall prepare and forward the request for a hearing to the Office of Appeals. The ~~JOBS~~ Jobs office shall include:
1. The information submitted ~~pursuant to~~ under subsection (C),
  2. The decision reached at the informal resolution meeting, ~~if any, and~~
  3. Any decision notice or other documents relating to the hearing request.
- I. Upon receipt of a request for a fair hearing, the Office of Appeals ~~will shall~~ conduct the hearings ~~pursuant to~~ under A.A.C. R6-12-1005 through R6-12-1007 and R6-12-1009 through R6-12-1013(A), except that references to "FAA" ~~shall be references to~~ JOBS are replaced by "Jobs."

**R6-10-304. Further Appeal**

- A. Regular employees grieving displacement issues ~~pursuant to R6-10-125(A)(4)~~ under R6-10-126(A)(4) may appeal the ~~decisions~~ any decision of a Department hearing officer as prescribed below:
1. The aggrieved party shall send the appeal to:  
Office of Administration Law Judges  
U.S. Department of Labor  
Vanguard Building, Room 600  
1111 20th Street, N.W.  
Washington, DC 20036
  2. The aggrieved party shall send a copy of the appeal to the following:
    - a. Assistant Secretary for Employment and Training  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210; and
    - b. Assistant Secretary for Family Support  
Department of Health and Human Services  
370 L'Enfant Promenade, SW, 6th Floor  
Washington, DC 20447
  3. The aggrieved party shall include the following information in the appeal:
    - a. The full name, address, and telephone number of the aggrieved party;
    - b. Citations to provisions or regulations the aggrieved party believes have been violated;
    - c. A copy of the original grievance filed with the state; and
    - d. A copy of the state's finding and decision.
  4. The decision of the Office of the Administrative Law Judges is the final decision of the Department of Labor.
- B. Employers grieving issues ~~pursuant to R6-10-125~~ under R6-10-126 may appeal the findings of a Department hearing officer to the Department's Appeals Board ~~pursuant to~~ under R6-12-1014(A), except that the decision of the Board is final.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 15. REVENUE**

**CHAPTER 5. DEPARTMENT OF REVENUE  
TRANSACTION PRIVILEGE AND USE TAX SECTION**

**PREAMBLE**

**1. Sections Affected**

**Rulemaking Action**

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R15-5-2302	Amend
R15-5-2306	Repeal
R15-5-2307	Repeal
R15-5-2308	Repeal

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 42-1005

Implementing statute: A.R.S. § 42-5155

**3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 4272, October 22, 2004

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Hsin Pai, Tax Analyst  
Address: Tax Policy and Research Division  
Arizona Department of Revenue  
1600 W. Monroe, Room 810  
Phoenix, AZ 85007  
Telephone: (602) 716-6851  
Fax: (602) 716-7995  
E-mail: hpai@azdor.gov

Please visit the ADOR Web site to track the progress of these rules and other agency rulemaking matters at [www.azdor.gov/tra/draftdoc.htm](http://www.azdor.gov/tra/draftdoc.htm).

**5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

The Department is amending the rules to more clearly explain the imposition of Arizona use tax on purchasers for out-of-state purchases used, stored, or consumed in this state on which Arizona transaction privilege tax has not already been imposed. This rulemaking also eliminates language that may be confusing and misleading to taxpayers, as it no longer reflects the Department's position in light of superseding case law from two Arizona Court of Appeals opinions: *Arizona Department of Revenue v. Care Computer Systems, Inc.*, 4 P.3d 469 (Ariz. Ct. App. 2000), and *Arizona Department of Revenue v. O'Connor, Cavanagh, Anderson, Killingsworth & Beshears, P.A.*, 963 P.2d 279 (Ariz. Ct. App. 1997). The fact-intensive analyses used by the Court of Appeals to determine whether a transaction is subject to transaction privilege tax or use tax forecloses the simplistic approach taken in the rules that this proposed rulemaking repeals. The Department has likewise repealed an inconsistent *Arizona Transaction Privilege Tax Ruling* addressing the issue of purchases from out-of-state vendors, TPR 94-12, and is currently in the process of drafting a new ruling to replace it with assistance from interested and affected members of the general public.

**6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

There should be no significant economic impact to Arizona businesses or consumers arising from the proposed rulemaking. Because the amendments eliminate confusing and potentially misleading information, some out-of-state vendors may experience a minimal impact due to enforced compliance measures. The Department expects that the benefits of the amended rules to the public and the agency from achieving a better understanding of the use tax will be greater than the costs.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Hsin Pai, Tax Analyst  
Address: Tax Policy and Research Division  
Arizona Department of Revenue  
1600 W. Monroe, Room 810  
Phoenix, AZ 85007  
Telephone: (602) 716-6851

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Fax: (602) 716-7995

E-mail: [hpai@azdor.gov](mailto:hpai@azdor.gov)

**10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

An oral proceeding on the proposed rulemaking is scheduled as follows:

Date: December 13, 2004

Time: 9:00 a.m.

Location: Arizona Department of Revenue  
B1 Level Conference Room  
1600 W. Monroe  
Phoenix, AZ 85007

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE  
TRANSACTION PRIVILEGE AND USE TAX SECTION

ARTICLE 23. USE TAX

Section

- R15-5-2302. General  
R15-5-2306. ~~Distinction Between Sales Tax and Use Tax Repealed~~  
R15-5-2307. ~~When a Transaction is Subject to the Sales Tax Repealed~~  
R15-5-2308. ~~When a Transaction is Subject to the Use Tax Repealed~~

ARTICLE 23. USE TAX

**R15-5-2302. General**

- A. ~~The Use Tax Act~~ A.R.S. § 42-5155 imposes Arizona use tax upon the buyer a tax on the purchase of a purchaser that has purchased tangible personal property from an out-of-state vendor if the vendor's gross receipts from the sale are not already subject to Arizona transaction privilege tax. Because Arizona transaction privilege tax and Arizona use tax are complementary taxes, only one of the taxes will be imposed on a given transaction.
- B. ~~The Arizona use tax generally applies to the use, storage, or consumption in this state of items tangible personal property purchased from out-of-state suppliers vendors.~~
- C. ~~In cases where the buyer~~ If a purchaser has paid Sales Tax to an out-of-state seller vendor the excise, privilege, sales, or other similar tax of another state on a purchase of tangible personal property that is subject to Arizona use tax, the amount of tax paid to the other state may be applied against his the purchaser's Arizona Use Tax use tax liability.
- D. A purchaser that purchases tangible personal property exempt from tax as a purchase for resale in the ordinary course of business but subsequently uses or consumes the tangible personal property is subject to Arizona use tax.

**R15-5-2306. ~~Distinction Between Sales Tax and Use Tax Repealed~~**

- ~~A. The Sales Tax is imposed on sales made by vendors located within Arizona, while the Use Tax is levied on purchases from out-of-state vendors.~~
- ~~B. Since the Sales Tax and Use Tax are complementary taxes, only one of the taxes can be applied to a given transaction.~~

**R15-5-2307. ~~When a Transaction is Subject to the Sales Tax Repealed~~**

~~Sales made by vendors maintaining a place of business within Arizona are subject to the Sales Tax. Sellers operating from a commercial location or point of distribution, soliciting from a public place of business, or buying and selling articles on their own account within the state are deemed to be in business in Arizona.~~

~~For example, an office equipment dealer maintains a sales office in Arizona, solicits business from customers in Arizona,~~

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and orders the equipment from its home office out of state. Although the seller maintains no stock of inventory in Arizona and the products are shipped directly to the purchaser, he is nevertheless considered to be engaging in business within the state for purposes of this regulation. Such sales are taxable under the Sales Tax statutes.

**R15-5-2308. ~~When a Transaction is Subject to the Use Tax~~ Repealed**

Purchases made from vendors not maintaining a place of business in this state to Arizona customers are subject to the Use Tax. For example, purchases from an out of state vendor selling by mail order to Arizona residents are subject to the Use Tax.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

**PREAMBLE**

**1. Sections Affected:**

R19-3-701  
R19-3-702  
R19-3-703  
R19-3-704  
R19-3-705  
R19-3-706  
R19-3-707  
R19-3-708  
R19-3-709

**Rulemaking Action**

Amend  
Amend  
Repeal  
Repeal  
Amend  
Amend  
Amend  
Amend  
Amend

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 5-504(B)

Implementing statute: A.R.S. § 5-504(C)

**3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 424, February 6, 2004

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Katie Pushor, Executive Director

Address: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Telephone: (480) 921-4400

Fax: (480) 921-4488

E-mail: kpushor@azlottery.gov

or

Name: Pam Scharon

Address: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Telephone: (480) 921-4489

Fax: (480) 921-4425

E-mail: pscharon@azlottery.gov

**5. An explanation of the rules, including the agency's reason for initiating the rules:**

Article 7, Design and Operation of Instant Games, provides for the conduct of the Arizona Lottery's instant games. These rules are being amended to provide consistency with the Lottery's on-line game rules. The provisions described in these rules explain the common components of instant games: game profiles, determination of a winning ticket, ticket ownership responsibilities, procedures required to claim prizes and the claim period, ticket validation



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requirements, prize payments, and disputes concerning a ticket. These rules allow the Lottery to introduce new games in a timely manner and to respond to current market trends as authorized specifically by A.R.S. § 5-504(C).

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the proposed rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

*A. The Arizona State Lottery.*

Costs to the agency for this Article are included in the agency's appropriated budget. These rules provide for the effective management of the instant ticket product and allow the Lottery to introduce new instant games in a timely manner, thus providing the State and licensed retailers with the potential to increase sales revenue. The Lottery does not anticipate any negative economic impacts related to these rules.

*B. Political Subdivisions.*

Political subdivisions of this state are not directly affected by these rules.

*C. Businesses Directly Affected by this Rulemaking.*

Lottery retailers are the only businesses affected by these rules. The impact on licensed Lottery retailers is to specify how they determine if a ticket is a winning ticket, and if so, the prize amount. These rules allow the Lottery to introduce new instant games in a timelier manner, thus providing licensed retailers with a potential increase in sales revenue. Retailers currently receive \$.065 for each \$1 on-line transaction. In FY04, retailers earned almost \$12 million in instant game commissions.

*D. Private and Public Employment.*

These adoption of these rules should have no impact on private and public employment.

*E. Consumers and the Public.*

There are no costs to the public associated with the adoption of these rules. These rules will provide players with additional or enhanced instant games from which to choose.

*F. State Revenues.*

These rules allow the Lottery to introduce new instant games in a timelier manner, thus providing the State with a potential increase in sales revenue.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Katie Pushor, Executive Director

Address: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Telephone: (480) 921-4400

Fax: (480) 921-4488

E-mail: kpushor@azlottery.gov

or

Name: Pam Scharon

Address: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Telephone: (480) 921-4489

Fax: (480) 921-4425

E-mail: pscharon@azlottery.gov

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceed-**

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**ing is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: December 17, 2004

Time: 10:00 a.m.

Location: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Nature: Oral Proceeding

The close of record is 5:00 p.m. on December 16, 2004 for written comments and at the end of the oral proceeding for verbal comments.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable.

**12. Incorporation by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

**ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES**

Section

- R19-3-701. Definitions
- R19-3-702. Game Profile
- R19-3-703. ~~Game Playstyle~~ Repealed
- R19-3-704. ~~Determination of a Winning Ticket~~ Repealed
- R19-3-705. Ticket Validation Requirements
- R19-3-706. Ticket Ownership and ~~Payment for Instant Prize Winnings~~ Responsibility; Prize Payment
- R19-3-707. Claim Period
- R19-3-708. Procedure for Claiming Prizes
- R19-3-709. Disputes Concerning a Ticket

**ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES**

**R19-3-701. Definitions**

In this Article, unless the context otherwise requires:

1. "Caption" means the printed characters appearing below a play symbol or prize symbol that verify and correspond with that symbol. No more than one caption will appear under a symbol.
2. "Game Play Style" means the process or procedure that a player must follow to determine if a Lottery ticket is a winning ticket.
- ~~1-3.~~ "Game profile" means the written document that includes in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game information including, but not limited to, the game prize structure, game playstyle, and special game features fundamentals required by these rules for an instant game.
- ~~2.~~ "High tier" means any instant game ticket prize of \$600 or more.
- ~~3-4.~~ "Instant game" means a game that is played by removing the protective covering from a ticket to reveal the play or prize symbols that determine if a ticket holder is entitled to a prize or prizes.
- ~~4.~~ "Low tier" means any instant game ticket prize of less than \$100.
- ~~5.~~ "Mid tier" means any instant game ticket prize of \$100 or more, up to and including \$599.
- ~~6-5.~~ "Pack" means a group of tickets bearing a common identification number.
- ~~7-6.~~ "Pack-ticket number" means a unique multi-digit number that includes a game number, a pack number, and a ticket number which distinguishes each ticket from every other ticket within an instant game.
- ~~8-7.~~ "PIN" means the designated characters within the validation number that allows an on-line terminal to validate an instant ticket.
- ~~9-8.~~ "Play area" means the portion or portions of the ticket which contains the play symbol or symbols. More than ~~1~~ one play area may appear on a ticket.

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- 10.9. ~~"Play symbols" mean the numbers, letters, symbols, or pictures printed in the play area of each instant ticket~~ means the printed images that appear within the defined play area of the ticket that determine if the ticket holder is entitled to a prize or prizes.
11. ~~"Play symbol caption" means the printed characters under the protective covering on the ticket, located immediately below each play symbol, that verify the play symbol. No more than 1 play symbol caption appears under each play symbol.~~
- 12.10. ~~"Prize structure" means the estimated number, number of prizes, value, prize values, and odds of winning prizes for an individual game.~~
- 13.11. ~~"Prize symbol" means a character or characters printed the printed image that indicates the prize available in that game, as described in the Game Profile.~~
14. ~~"Prize symbol caption" means the printed characters under the protective covering on the ticket, located immediately below each prize symbol that verify the prize symbol. No more than 1 prize symbol caption appears under each prize symbol.~~
- 15.12. ~~"Retailer validation code" means the multiple letters in the play area, under the protective covering that verify low- and mid-tier prize amounts~~ prizes less than \$600.
16. ~~"Theirs" means the opponent's play area or areas, (for example, "dealer's hand(s)", "house card(s)", "house roll(s)").~~
17. ~~"Ticket" means paper stock containing a play area or areas and the game play data for an individual game.~~
18. ~~"Ticket holder" means a person who has possession of an unsigned ticket, or a person whose signature appears on a signed ticket.~~
- 19.13. ~~"Validation number" means the unique multi-digit code found under the protective covering on each ticket that is used to validate winning tickets.~~
20. ~~"Yours" means the ticket holder's play area or areas (for example, "your hand(s)", "your card(s)", or "your roll(s)").~~

**R19-3-702. Game Profile**

- A.** The Commission shall approve the individual Game Profile prior to the game being introduced to the public for sale.
- B. ~~A.~~** At a minimum, the Game Profile for each game shall contain the following information: Each game shall have a Game Profile and at a minimum, the Profile shall contain the following information:
1. Game name;
  2. Game number;
  3. Prize structure; ~~including the number and size of prizes available, free tickets, and merchandise prizes, if applicable;~~
  4. Game Playstyle;
  5. Play symbols; ~~including variant symbol or symbols, if any;~~
  6. Retailer validation codes;
  7. Special ~~feature~~; features, if any;
  8. Retail sales price;
  9. How to play and win instructions;
  - 9.10. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B.** Each game may include specific variants that provide added or alternative methods of winning. Any variants shall be described in the Game Profile.
- C.** The Commission shall approve the individual Game Profile prior to the game being sold to the public.

**R19-3-703. Game Playstyle Repealed**

- A.** The playstyle for an individual game shall be fully described in the Game Profile and shall be 1 of the following methods of play unless a different method is prescribed by another rule:
1. ~~Match Two;~~
  2. ~~Match Three;~~
  3. ~~Add up;~~
  4. ~~Tie-Tac-Toe;~~
  5. ~~Key Symbol or Symbols Match;~~
  6. ~~Key Symbol or Symbols Beat;~~
  7. ~~Symbols in Sequence;~~
  8. ~~Spellouts;~~
  9. ~~In Between;~~
  10. ~~Bingo.~~
- B.** ~~More than 1 game and more than 1 playstyle may appear on a ticket.~~

**R19-3-704. Determination of a Winning Ticket Repealed**

- A.** The play symbols are the only determining factor for prize eligibility for a valid ticket.
- B.** For each play area on an individual ticket, the player shall remove the protective covering to find the play symbols, or the play and prize symbols. Eligibility to win a prize is based on compliance with the designated playstyle as follows:

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1. Match Two. The player shall win the prize or prizes indicated by uncovering 2 identical play symbols on a play area.
  2. Match Three. The player shall win the prize or prizes indicated by uncovering 3 identical play symbols on a play area.
  3. Add Up. The player shall win the prize or prizes indicated in either of the following ways:
    - a. The player adds up the play symbols and the amount is greater than or equal to the designated key symbol on the ticket; or
    - b. The player adds up the play symbols designated as “yours” and the total is greater than or equal to the key symbol or symbols designated as “theirs”.
  4. Tie-Tac-Toe. The player shall win the prize or prizes indicated by uncovering 3 identical play symbols, in any row, column, or diagonal, on a 9 symbol grid on the play area.
  5. Key Symbol or Symbols Match. The player shall win the prize or prizes indicated by uncovering a play symbol or symbols which is identical to the designated key play symbol or symbols.
  6. Key Symbol or Symbols Beat. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated as “yours” in the ticket play area which is greater than the play symbol or symbols designated as “theirs”.
  7. Symbols in Sequence. The player shall win the prize or prizes indicated by uncovering the designated play symbols in the specified sequential order.
  8. Spellouts. The player shall win the prize or prizes indicated by uncovering the play symbols to form the designated word or words.
  9. In Between. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated as “yours” with a value less than the play symbol or symbols designated as “their high card” and greater than the play symbol or symbols designated as “their low card”.
  10. Bingo. The player shall win the prize or prizes indicated by uncovering the play symbols on the “Caller’s Card” play area that are identical to the play symbols on 1 or more of the “Player’s Card” which are located on the “Player’s Card” in 1 or more of the following ways as indicated on the ticket:
    - a. Five consecutive play symbols, including the “free” play symbol, if appropriate, in any horizontal, vertical, or diagonal line; or
    - b. Play symbols in all 4 corners; or
    - c. All 5 consecutive play symbols in the top row, the bottom row, and the 1st and 5th columns, forming an outer frame pattern; or
    - d. The 2nd, 3rd, and 4th play symbols in the 2nd row, the 4th row, the 2nd column, and the 4th column forming an inner frame pattern; or
    - e. The 1st, 2nd, 4th, and 5th play symbols in the 1st, 2nd, 4th, and 5th rows, forming a box pattern in each of the 4 corners; or
    - f. The 3rd play symbol in the 1st and 5th rows, the 2nd and 4th play symbols in the 2nd and 4th rows, and the 3rd play symbol in the 1st and 5th rows, forming a diamond pattern; or
    - g. The 3rd, 4th, and 5th play symbols in the 1st and 5th rows, the 2nd and 3rd play symbols in the 2nd and 4th rows, the 3rd play symbol in the 1st row, and the “free” play symbol, forming an “A” pattern; or
    - h. The 1st, 2nd, 3rd, 4th, and 5th play symbols in the 1st and 5th rows, and the 1st play symbols in the 2nd, 3rd, and 4th rows, forming a “C” pattern; or
    - i. The 1st, 2nd, 3rd, 4th, and 5th play symbols in the 1st column, and the 2nd, 3rd, 4th, and 5th play symbols in the 5th row, forming an “L” pattern; or
    - j. The 1st, 2nd, 3rd, 4th, and 5th play symbols in the 1st and 5th columns, and the 3rd play symbol in the 2nd and 4th columns, and the “free” play symbol, forming an “H” pattern; or
    - k. The 1st, 2nd, 3rd, 4th, and 5th play symbols in the 1st row, and the 2nd play symbol in the 3rd column, the “free” play symbol, and the 4th and 5th play symbols in the 3rd column, forming a “T” pattern; or
    - l. Five consecutive play symbols in both diagonals forming a “X” pattern; or
    - m. The 1st, 2nd, 3rd, 4th, and 5th play symbols in the 1st row and 5th row, the 2nd play symbol in the 4th column, the “free” play symbol, and the 4th play symbol in the 2nd column, forming a “Z” pattern; or
    - n. The 1st, 2nd, 3rd, 4th, and 5th play symbols in the 1st row, the 2nd play symbol in the 4th column, the “free” play symbol, the 4th play symbol in the 2nd column, and the 5th play symbol in the 1st column, forming a “7” pattern; or
    - o. All of the play symbols in the 1st, 2nd, 3rd, 4th, and 5th rows, and the “free” play symbol, creating a “blackout”.
- C.** Each of the playstyles described in subsection (B) may include a specific variant such as “automatic win feature”, “doubler feature”, “wild card”, or “free space” that provides added or alternative methods of winning.

**R19-3-705. Ticket Validation Requirements**

- A.** Each instant game ticket shall be ~~valid and~~ validated prior to payment of a prize.
- B.** To be a valid ticket, ~~all of the following requirements shall be met~~ eligible for a prize, a ticket holder must present a ticket meeting all of the following requirements:

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1. The ticket shall not be stolen or appear on any list of omitted tickets on file with the ~~Arizona State Lottery Commission~~;
  2. The ticket shall not be counterfeit or forged, in whole or in part;
  3. The ticket shall not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
  4. The ticket shall not be blank, partially blank, misregistered, defective, or printed or produced in error;
  5. The play and prize symbols shall have the captions that confirm and agree with those applicable to that instant game;
  6. The ticket shall have been issued by the ~~Arizona State Lottery Commission~~ in an authorized manner;
  7. The ticket shall have been legally obtained;
  8. The ticket shall pass ~~the all other~~ confidential validation ~~and security~~ tests ~~appropriate to the applicable playstyle determined by the Director~~;
  9. The ticket shall be validated in accordance with the provisions of sections R19-3-706 and R19-3-708.
  - ~~9-10.~~ The display printed on the ticket shall correspond precisely with the approved artwork on file at the ~~Arizona State Lottery Commission~~;
  - ~~10-11.~~ The validation number of a winning ticket shall appear in the ~~Arizona State Lottery Commission's~~ Lottery's official file of validation numbers of winning tickets. ~~A ticket with that validation number shall and~~ not have been paid previously;
  - ~~11-12.~~ All of the ticket symbols originally printed on the ticket shall appear in the play area on the ticket and shall correspond to those shown in the Game Profile;
  - ~~12-13.~~ The play and prize symbols shall have the required captions that confirm and agree with those of the appropriate instant game;
  - ~~13-14.~~ The ticket shall contain ~~exactly 1 ticket validation number, 1 retailer validation code, 1 a game number, 1 a pack-ticket number, a retailer validation code, a and 1 PIN number~~ and at least one ticket validation number. The play and prize symbols, the play and prize symbol captions, ticket validation number, retailer validation code, game number, pack ticket number, and PIN number shall be right side up and not reversed in any manner.
- C. If the ticket fails to pass any of the requirements in Section R19-3-705(B), the ticket is void and ineligible for any prize payout.

**R19-3-706. Ticket Ownership and ~~Payment for Instant Prize Winnings Responsibility; Prize Payment~~**

- A. If the winning ticket was purchased by a group of players, the group shall designate 1 of the claimants to sign the ticket. Each claimant shall complete an individual form to receive the claimants' portion of the prize. Until a ticket is signed, the ticket is owned by its physical possessor.
- B. The Arizona State Lottery Commission shall only make payment to the claimant, less any authorized debt set-off amounts, who is also the ticket holder. The Director shall recognize as the owner of a winning instant ticket the person whose signature appears upon the ticket in the area designated for that purpose.
1. If more than one signature appears on the ticket, the Director is authorized to require that one or more of those claimants be designated to receive the payment. A claim form shall be submitted by each claimant who is designated to receive a portion of the prize claimed from the winning ticket.
  2. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement.
  3. When the winning ticket was purchased by a group of players, the group shall designate one of the claimants to sign the ticket for the group. Each claimant shall complete an individual claim form to receive the claimant's portion of the prize.
  4. In the event there is an inconsistency in the information submitted on a claim form and as shown on the winning instant ticket, the Director shall authorize an investigation and withhold all winnings payable to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.
- C. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement. Prior to paying the claimant a prize of \$600 or more, the Lottery shall match the winner's name against the lists of persons owing a debt to a participating state agency, furnished to the Lottery under A.R.S. § 5-525.
1. If there is a match on any of the claims submitted with a ticket, the amount that is owed shall be deducted from the prize due the claimant.
  2. The claimant shall be notified in writing of the amount of the set-off and the agency to which it shall be paid.
  3. If the claimant has two or more agencies which are owed a debt, the Lottery shall pay a pro-rata share to each of the agencies, except that a Department of Economic Security overdue child support set-off shall be paid in full before any amount shall be paid to another agency.
  4. The claimant shall be notified in writing that a right to appeal the set-off exists and must be commenced within 30 days of the receipt of this notification. The notification shall include the name and address of the agency with which to file the appeal.
  5. If, after deducting withholding taxes and the set-off, a portion of the prize remains then that portion shall be paid to

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the winner with the notification of set-off.

6. The amount of set-off shall be forwarded to the agency, and that agency shall be responsible for any appeal and crediting of the payment against the amount owed or refunding any amount to the winner.

7. Upon a determination that a set-off is due, the winner loses the right under subsection (B)(2) to assign any portion of the claim.

**D.** Prizes shall be paid by cash, check, or if requested by the player, by Lottery tickets.

1. If a ticket contains more than one winning game play, any prize amounts shall be combined and paid in accordance with the prize payment limits specified in Section R19-3-708.

2. Each winning game play wins the prize amount specified in the Game Profile.

**E.** The Lottery is not responsible for lost or stolen tickets.

**R19-3-707. Claim Period**

**A.** In order for the claimant to receive payment, a winning instant game ticket shall be received by the ~~Arizona State Lottery Commission~~ or a retailer no later than § 5:00 p.m. (Phoenix time) on the 180th calendar day following the announced end of the instant game.

**B.** If a claimant presents a valid winning ticket to a retailer for payment on the 180th calendar day following the game drawing date and is not paid the prize, the Director is authorized to pay the prize if the claimant presents the valid winning ticket to the Lottery no later than 5:00 p.m. (Phoenix time) on the following business day.

~~B.C.~~ In the case of a drawing prize, the claimant must claim the prize no later than § 5:00 p.m. (Phoenix time) on the final day designated by the Director and on file at the ~~Arizona State Lottery Commission~~.

~~C.D.~~ The end of an instant game shall be designated by the Director and on file at the ~~Arizona State Lottery Commission~~.

~~D.E.~~ The Director is authorized to place any person's eligible entry that was not entered in the grand prize drawing into a subsequent grand prize drawing or drawings which have an equal or greater grand prize value.

**R19-3-708. Procedure for Claiming Prizes**

**A.** To claim a low- or mid-tier instant game cash prize, a claimant may take the ticket to a retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. If the claim is verified and the ticket is validated as a winning ticket, the Arizona State Lottery Commission or the retailer shall make payment of the amount due to the claimant. If the retailer does not verify the claim, validate the ticket, or pay the amount due, the claimant may take or mail the ticket to a Lottery office for verification and validation. If the ticket is validated in accordance with these rules, the claimant shall receive payment. To claim a prize of up to and including \$599, the claimant shall present the ticket to any participating licensed retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. The licensed retailer shall pay a winner a prize up to and including \$100 and may pay a winner a prize up to and including \$599 provided that:

1. All of the ticket validation criteria in Section R19-3-705 have been satisfied; and

2. A proper validation slip, which is an authorization to pay, has been issued by the terminal.

**B.** To claim a high-tier instant game prize, the claimant shall sign the back of the ticket, and take or mail the ticket and claim form to a Lottery office for validation. If the claim is verified and the ticket is validated as a winning ticket, the Arizona State Lottery Commission shall make payment of the amount due to the claimant. The claimant shall be notified if the ticket is not validated as a winning ticket by the Arizona State Lottery Commission. To claim a prize that the retailer does not validate or is not authorized to pay, including all prizes of \$600 or more, the claimant shall submit a claim form, available from any retailer, and the ticket to the Lottery. If the claim is:

1. Verified and validated by the Lottery as a winning ticket, the Lottery shall make payment of the amount due to the claimant, less any authorized debt set-off amounts and/or withheld taxes.

2. Denied by the Lottery, the claimant shall be notified within 15 days from the day the claim is received in the Lottery office.

**C.** If a prize winner dies prior to receiving full payment, the ~~Arizona State Lottery Commission~~ shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.

**D.** The ~~Arizona State Lottery Commission~~ shall be is discharged of all liability upon payment of the prize money.

**E.** Payment of prize money shall not be accelerated ahead of its normal date of payment.

**R19-3-709. Disputes Concerning a Ticket**

**A.** If a dispute between the ~~Arizona State Lottery Commission~~ and a claimant occurs concerning a ticket, the Director is authorized to replace the disputed ticket with a ticket or tickets of equivalent sales price from any current instant game.

**B.** If a defective ticket is purchased, the ~~Arizona State Lottery Commission~~ shall replace the defective ticket with a ticket or tickets of equivalent sales price from any current instant game.

**C.** The Arizona State Lottery Commission shall not be liable for paying the difference in a prize amount previously paid to a claimant and the actual amount that should be paid unless the claimant provides documentation establishing:

1. That the claimant was paid the lesser amount; and

2. That the claimant is entitled to a greater amount, according to the records on file at the Arizona State Lottery Commission and the criteria set forth in these rules and in orders for the game approved by the Arizona State Lottery Com-

~~mission pursuant to A.R.S. § 5-504(C).~~

~~Replacement of the disputed ticket is the sole and exclusive remedy for a claimant.~~

- D.** If a dispute between the Lottery and a claimant occurs concerning the eligibility of an entry into a Grand Prize drawing, the Director is authorized to place any person's eligible entry that was not entered in the Grand Prize drawing into a subsequent Grand Prize drawing or drawings.

## NOTICE OF PROPOSED RULEMAKING

### TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

#### CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

##### PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R19-3-1001                         | Amend                           |
| R19-3-1002                         | Amend                           |
| R19-3-1003                         | Amend                           |
| R19-3-1004                         | Repeal                          |
| R19-3-1005                         | Repeal                          |
| R19-3-1006                         | Repeal                          |
| R19-3-1007                         | Amend                           |
| R19-3-1008                         | Amend                           |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 5-504(B).
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**  
Notice of Rulemaking Docket Opening: 10 A.A.R. 2611, June 25, 2004
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Katie Pushor, Executive Director                                       |
| Address:   | Arizona State Lottery<br>4740 E. University Drive<br>Phoenix, AZ 85034 |
| Telephone: | (480) 921-4400   |
| Fax:       | (480) 921-4488   |
| E-mail:    | kpushor@azlottery.gov  |
|            | or   |
| Name:      | Pam Scharon  |
| Address:   | Arizona State Lottery<br>4740 E. University Drive<br>Phoenix, AZ 85034 |
| Telephone: | (480) 921-4489   |
| Fax:       | (480) 921-4425   |
| E-mail:    | pscharon@azlottery.gov   |
- 5. An explanation of the rules, including the agency's reason for initiating the rules:**  
Article 10 sets forth provisions unique to the conduct of Arizona Lottery promotions to increase sales, public awareness of Lottery games and benefits, and retailer participation in Lottery programs. These rules are being amended to eliminate specific language regarding various types of promotions. Detailed language describing individual promotions is not necessary because all Lottery promotions are fully described in the Promotion Profile as required by these rules. The rules explain the common components of Lottery promotions, promotion characteristics and restrictions, the procedures required to claim promotional items and disputes concerning a promotion.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the proposed rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Notices of Proposed Rulemaking

None

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

*A. The Arizona State Lottery.*

Costs to the Agency for this Article are included in the agency's appropriated budget. They include the cost of cash or merchandise prizes, and administrative operating expenses associated with personnel, point-of-sale items, and related advertising.

*B. Political Subdivisions.*

Political subdivisions of this state are not directly affected by these rules.

*C. Businesses Directly Affected by this Rulemaking.*

Businesses affected by this rule are Lottery retailers who sell Lottery game products to the public. The only impact this rule has upon Lottery retailers is to specify how to determine if a player is a promotion winner, and if so, the premium amount. Currently, retailers receive \$.065 commission for each \$1 Lottery game transaction. An increase in sales as a result of Lottery promotions will boost the amount of commissions earned by retailers.

*D. Private and Public Employment.*

The adoption of these rules should have no impact on private and public employment.

*E. Consumers and the Public.*

There are no costs to the public associated with the adoption of these rules.

*F. State Revenues.*

These rules allow the Lottery to introduce various product promotions, thus providing the State with a potential to increase sales revenue.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Katie Pushor, Executive Director

Address: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Telephone: (480) 921-4400

Fax: (480) 921-4488

E-mail: kpushor@azlottery.gov

or

Name: Pam Scharon

Address: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Telephone: (480) 921-4489

Fax: (480) 921-4425

E-mail: pscharon@azlottery.gov

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: December 17, 2004

Time: 10:00 a.m.

Location: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Nature: Oral Proceeding



The close of record is 5:00 p.m. on December 16, 2004 for written comments and at the end of the oral proceeding for verbal comments.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporation by reference and their location in the rules:**

None

**13. The full text of the rule follows:**

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

**ARTICLE 10. PROMOTIONS**

Section

- R19-3-1001. Definitions
- R19-3-1002. Promotion Profile
- R19-3-1003. Promotion Play Style – Promotion Type
- R19-3-1004. ~~Determination of a Winning Promotion Repealed~~
- R19-3-1005. ~~Promotion Ticket Ownership and Payment for Promotion Winnings Repealed~~
- R19-3-1006. ~~Promotion Validation Requirements Repealed~~
- R19-3-1007. Procedure for Claiming Prizes and Claim Period
- R19-3-1008. Disputes Concerning a Promotion Ticket or a Promotion Winner

**ARTICLE 10. PROMOTIONS**

**R19-3-1001. Definitions**

In this Article, unless the context otherwise requires:

- ~~1. “Best interests of the Lottery” means advantageous to the Lottery as determined by the Director.~~
2. “Category” means player, consumer, retailer, vendor, or other person who participates in the promotion.
3. “Charitable organization” means a non-profit organization organized and operated exclusively for charitable purposes and is qualified under §502(c)(3) of the United States Internal Revenue Code.
4. “Media” means the method of communication, as in television, radio, print, outdoor, or internet, with wide reach and influence.
- ~~4.5.~~ “Prize type” means cash, free ticket or tickets from same or different game product, ticket coupon, drawing coupon, discount on same or different game product or vendor product, or merchandise prize.
6. “Promotion Playstyle” means the type of process or procedure used to control the promotion.
- ~~5.7.~~ “Promotion” means a program designed to increase awareness of the Lottery and Lottery games and to increase sale of lottery tickets to produce the maximum amount of net revenue for the state by offering an incentive to buy.
- ~~6.8.~~ “Promotional merchandise” means Lottery related goods, consumer products, or services provided by the Lottery for use in a promotion.
- ~~7. “Promotional ticket” means a Arizona Lottery ticket from a current, active game provided by the Lottery for use in a promotion.~~
9. “Promotion Profile” means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential promotion fundamentals required by these rules for a promotion.
- ~~8.10.~~ “Targeted game or targeted games” means the specific game or games a promotion is intended to increase sales or awareness of.
- ~~9.11.~~ “Tickets” means ~~1~~ one or more Lottery game plays from the targeted game or games.

**R19-3-1002. Promotion Profile**

- A. The Commission shall approve orders in accordance with A.R.S. § 5-504(C) for the specific Promotion Profile prior to the promotion being introduced to the public for participation. Each promotion shall have a Promotion Profile and at a minimum, the Profile shall contain the following information:
- B. ~~At a minimum, the Promotion Profile for each promotion shall contain the following information:-~~
  1. Promotion name;
  2. ~~Prize type and structure, including the estimated number and size of monetary prizes, free tickets, and merchandise prizes available, if applicable; Promotion Play Style;~~

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3. ~~Play style~~ Promotion Type; Category;
  4. ~~Category; Targeted game or games or products involved in the Promotion;~~
  5. ~~Targeted game or games or products involved in the Promotion; Promotion description;~~
  6. ~~Special feature, if any; Promotion selection criteria, if applicable;~~
  7. ~~Retail sales price; Prize type and structure, including the estimated number and size of monetary prizes, free tickets, and merchandise prizes available, if applicable;~~
  8. ~~Promotion date range (beginning and ending promotion dates, term of the promotion; Retail sales price;~~
  9. ~~Time range, if applicable; Promotion date range (beginning and ending promotion dates);~~
  10. ~~Day or days of the week, if applicable; Time range, if applicable;~~
  11. ~~Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable; Day or days of the week, if applicable;~~
  12. ~~Promotion selection criteria, if applicable. Special feature, if any;~~
  13. ~~Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.~~
- B.** The Commission shall approve the Promotion Profile prior to the promotion being introduced to the public for participation.

**R19-3-1003. Promotion Play Style - Promotion Type**

- A.** The Promotion Play style Style for a specific promotion shall be fully described in the Promotion Profile, ~~and shall be 1 of the following methods of play unless a different method is prescribed by another rule:~~
1. ~~Second Chance Drawing – non-winning tickets Players.~~
  2. ~~Second Chance Drawing – entry forms – Players.~~
  3. ~~Retailer's Second Chance Drawing – low or mid-tier winners – Players.~~
  4. ~~Increased Prize Payment.~~
  5. ~~Buy X and Get Y Free – tickets.~~
  6. ~~Buy X and Get Y Free – ticket coupon.~~
  7. ~~Buy X and Get Y Free – drawing coupon.~~
  8. ~~Buy X and Get Y Free – merchandise.~~
  9. ~~Buy X and Get Y Free – cash prize.~~
  10. ~~Buy X and Get Y Free, every Nth transaction – tickets.~~
  11. ~~Buy X and Get Y Free, every Nth transaction – ticket coupon.~~
  12. ~~Buy X and Get Y Free, every Nth transaction – drawing coupon.~~
  13. ~~Buy X and Get Y Free, every Nth transaction – merchandise prize.~~
  14. ~~Buy X and Get Y Free, every Nth transaction – cash prize.~~
  15. ~~Buy X and Get Y Free, every Nth transaction – Partner Play.~~
  16. ~~Buy X and Get Y Free, No Match – tickets.~~
  17. ~~Buy X and Get Y Free, No Match – ticket coupon.~~
  18. ~~Buy X and Get Y Free, No Match – drawing coupon.~~
  19. ~~Buy X and Get Y Free, No Match – merchandise prize.~~
  20. ~~Buy X and Get Y Free, No Match – cash prize.~~
  21. ~~Buy X and Get Y Free, Day of the Week – tickets.~~
  22. ~~Buy X and Get Y Free, Day of the Week – ticket coupon.~~
  23. ~~Buy X and Get Y Free, Day of the Week – drawing coupon.~~
  24. ~~Buy X and Get Y Free, Day of the Week – merchandise prize.~~
  25. ~~Buy X and Get Y Free, Day of the Week – cash prize.~~
  26. ~~Buy X and Get Y Free, Multi-Draw – tickets.~~
  27. ~~Buy X and Get Y Free, Multi-Draw – ticket coupon.~~
  28. ~~Buy X and Get Y Free, Multi-Draw – drawing coupon.~~
  29. ~~Buy X and Get Y Free, Multi-Draw – merchandise prize.~~
  30. ~~Buy X and Get Y Free, Multi-Draw – cash prize.~~
  31. ~~Buy X and Get Y Free, Non-Winning Tickets – tickets.~~
  32. ~~Buy X and Get Y Free, Non-Winning Tickets – ticket coupon.~~
  33. ~~Buy X and Get Y Free, Non-Winning Tickets – drawing coupon.~~
  34. ~~Buy X and Get Y Free, Non-Winning Tickets – merchandise prize.~~
  35. ~~Buy X and Get Y Free, Non-Winning Tickets – cash prize.~~
  36. ~~Complete Survey – Tickets.~~
  37. ~~Complete Survey – Ticket Coupon.~~
  38. ~~Complete Survey – Drawing Coupon.~~
  39. ~~Complete Survey – Merchandise Prize.~~
  40. ~~Complete Survey – Cash Prize.~~

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41. Buy X Get Y Free Coupon—Direct Mail.
  42. Buy X Get Y Free Coupon—Newspaper.
  43. Happy Birthday Club Coupon.
  44. Special Events—Non-winning Tickets.
  45. Special Events—Spin of the Lottery Prize Wheel.
  46. Special Events—Various Games of Little or No Skill.
  47. Special Events—Guess How Many?.
  48. Special Events—Where's Willy?.
  49. Second Chance Drawing—Retailer.
  50. Retailer Incentive—Sales.
  51. Retailer Incentive—Point-of-Sale.
  52. Mystery Shopper—Retailer.
  53. Ask for the Sale—Retailer.
  54. Ask Me What the Jackpot Is—Retailer.
  55. Ask Me What the Grand Prize Is—Retailer.
  56. Retailer's Second Chance Drawing—Retailer/Player.
  57. Cross Promotion—Vendor.
  58. Radio Promotion—Vendor.
  59. Charitable Organization.
  60. Public Contest—not related to specific Lottery game.
  61. Customer Service—Tickets.
  62. Customer Service—Ticket Coupon.
  63. Customer Service—Merchandise.
  64. POWERBALL™ Doubler Promotion.
  65. POWERBALL™ MUSL Promotions.
- B. More than ~~+~~ one promotion may run concurrently.
- C. Promotion may be held only on specific days of the week.
- D. Promotion may be held only during specific hours of the day.
- E. Promotion may be available for selected regions, zones, retailer groups or player groups. Groups may be made by business codes, regions, county, zip code, chain designator, field representative or sales quota.

**R19-3-1004. Determination of a Winning Promotion Repealed**

Eligibility to win a prize is based on compliance with the designated Play style as follows:

1. Second Chance Drawing—non-winning tickets—Players. The player shall send the Lottery game non-winning ticket or tickets from the targeted games or games required in the Promotion Profile to the Lottery office for entry into a Grand Prize Drawing. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
2. Second Chance Drawing—entry forms—Players. The player shall send a completed entry form required in the Promotion Profile to the Lottery office or designated Lottery vendor for entry into a Grand Prize Drawing. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
3. Second Chance Drawing—low or mid-tier winners—Players. Players who win a particular prize denomination in the targeted game or games shall automatically be entered into a Grand Prize Drawing. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
4. Increased Prize Payment. Players who win a particular prize denomination in the targeted game or games shall win an additional amount specified in the Promotion Profile, i.e. double prize payout for a division 4 winners in Lotto, 20% increase in all prizes in the Pick 3™ game on each Monday in May.
5. Buy X and Get Y Free—tickets. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a predetermined number of additional tickets free according to the Promotions Profile.
6. Buy X and Get Y Free—ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
7. Buy X and Get Y Free—drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
8. Buy X and Get Y Free—merchandise. Each time a player buys a predetermined number of the targeted game or games tickets, the player will receive a merchandise prize according to the Promotions Profile.
9. Buy X and Get Y Free—cash prize. Each time a player buys a predetermined number of the targeted game or games

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- tickets, the player will receive a cash prize according to the Promotions Profile.
10. Buy X and Get Y Free, every Nth transaction – tickets. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a predetermined number of additional tickets free according to the Promotions Profile.
  11. Buy X and Get Y Free, every Nth transaction – ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
  12. Buy X and Get Y Free, every Nth transaction – drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
  13. Buy X and Get Y Free, every Nth transaction – merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a merchandise prize according to the Promotions Profile.
  14. Buy X and Get Y Free, every Nth transaction – cash prize. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player will receive a cash prize according to the Promotions Profile.
  15. Buy X and Get Y Free, every Nth transaction – Partner Play. Each time a player buys a predetermined number of the targeted game or games tickets and is the Nth number of transaction produced by the on-line system, the player and the selling retailer clerk will receive an exact free ticket according to the Promotions Profile.
  16. Buy X and Get Y Free, No Match – tickets. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a predetermined number of tickets free according to the Promotions Profile.
  17. Buy X and Get Y Free, No Match – ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
  18. Buy X and Get Y Free, No Match – drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
  19. Buy X and Get Y Free, No match – merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a merchandise prize according to the Promotions Profile.
  20. Buy X and Get Y Free, No Match – cash prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket does not match any of the number selected in that game's drawing, the player will receive a cash prize according to the Promotions Profile.
  21. Buy X and Get Y Free, Day of the Week – tickets. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a predetermined number of tickets free according to the Promotions Profile.
  22. Buy X and Get Y Free, Day of the Week – ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
  23. Buy X and Get Y Free, Day of the Week – drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
  24. Buy X and Get Y Free, Day of the Week – merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a merchandise prize according to the Promotions Profile.
  25. Buy X and Get Y Free, Day of the Week – cash prize. Each time a player buys a predetermined number of the targeted game or games tickets on a particular day or days of the week, the player will receive a cash prize according to the Promotions Profile.
  26. Buy X and Get Y Free, Multi-Draw – tickets. Each time a player buys a predetermined number of the targeted game or games tickets for more than 1 drawing (for X number of drawings), the player will receive a predetermined number

- of tickets free according to the Promotions Profile.
27. Buy X and Get Y Free, Multi-Draw—ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets for more than 1 drawing (for X number of drawings), the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
  28. Buy X and Get Y Free, Day of the Week—drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets for more than 1 drawing (for X number of drawings), the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
  29. Buy X and Get Y Free, Multi-Draw—merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets for more than 1 drawing (for X number of drawings), the player will receive a merchandise prize according to the Promotions Profile.
  30. Buy X and Get Y Free, Multi-Draw—cash prize. Each time a player buys a predetermined number of the targeted game or games tickets for more than 1 drawing (for X number of drawings), the player will receive a cash prize according to the Promotions Profile.
  31. Buy X and Get Y Free, Non-Winning Tickets—tickets. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a predetermined number of tickets free according to the Promotions Profile.
  32. Buy X and Get Y Free, Non-Winning Tickets—ticket coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a coupon to be redeemed for a predetermined number of additional tickets free with the purchase of the same game tickets according to the Promotions Profile.
  33. Buy X and Get Y Free, Non-Winning Tickets—drawing coupon. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
  34. Buy X and Get Y Free, Non-Winning Tickets—merchandise prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a merchandise prize according to the Promotions Profile.
  35. Buy X and Get Y Free, Non-Winning Tickets—cash prize. Each time a player buys a predetermined number of the targeted game or games tickets and the ticket is not a winning ticket, the player will receive a cash prize according to the Promotions Profile.
  36. Complete Survey—Tickets. If a player completes a survey, the player will receive a predetermined number of the targeted game or games tickets free according to the Promotions Profile.
  37. Complete Survey—Ticket Coupon. If a player completes a survey, the player will receive a coupon to be redeemed for a predetermined number of tickets free with the purchase of the same game tickets according to the Promotions Profile.
  38. Complete Survey—Drawing Coupon. If a player completes a survey, the player will receive a coupon to be sent to the Lottery for entry into a Grand Prize Drawing according to the Promotions Profile. The player or players selected in the prize drawing procedure shall win the cash or merchandise prize designated in the Promotion Profile.
  39. Complete Survey—Merchandise Prize. If a player completes a survey, the player will receive a merchandise prize according to the Promotions Profile.
  40. Complete Survey—Cash Prize. If a player completes a survey, the player will receive a cash prize according to the Promotions Profile.
  41. Buy X Get Y Free Coupon—Direct Mail. Players who receive the Buy X Get Y Free coupon in the mail may redeem the coupon at any Lottery retailer for a Lottery ticket stated on the coupon and listed in the Promotion Profile.
  42. Buy X Get Y Free Coupon—Newspaper. Players who receive the Buy X Get Y Free coupon in the local Newspaper may redeem the coupon at any Lottery retailer for a Lottery ticket stated on the coupon and listed in the Promotion Profile.
  43. Happy Birthday Club Coupon. Players who mail a form with their name, address, phone number and birthday to the Lottery will receive a coupon which can be redeemed at any Lottery retailer for one Lottery ticket on their birthday.
  44. Special Events—Non-winning Tickets. Each time a player turns in a predetermined number of the targeted game or games non-winning tickets to a special event location, the player will receive a merchandise prize according to the Promotions Profile.
  45. Special Events—Spin of the Lottery Prize Wheel. Each player who visits a special event location may spin the Lottery Prize Wheel once. The player shall win the prize indicated on the Lottery Prize Wheel. Wheel must complete at least one complete revolution.
  46. Special Events—Various Games of Little or No Skill. Each player who visits a special event location may play any

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- number of carnival type games to win the prize indicated in the Promotion Profile and listed at the special event game.
47. ~~Special Events—Guess How Many? Each player who visits a special event location shall complete a form with their name, address, phone number and guess how many items are in a container (for example, large plastic “L” with loose change, money bag, iced tea jug with Lottery Scratchers). The predetermined number of players who come closest to correct amount shall win the prize indicated in the Promotion Profile.~~
  48. ~~Special Events—Where’s Willy? Clues to Windfall Willie’s whereabouts shall be announced on the participating radio station daily. Players who correctly locate Willie shall be entered into drawing for cash or merchandise prizes listed in the Promotion Profile.~~
  49. ~~Second Chance Drawing—Retailer. The Arizona Lottery retailer shall send the entry form required in the Promotion Profile to the Lottery office for entry into a Grand Prize Drawing. The retailer selected in the prize drawing procedures shall win the cash or merchandise prize designated in the Promotion Profile.~~
  50. ~~Retailer Incentive—Sales. Retailers who increase Lottery ticket sales for the targeted game or games by a particular percent during the designated period specified in the Promotion Profile shall win the corresponding prize listed in the Promotion Profile.~~
  51. ~~Retailer Incentive—Point-of-Sale. Retailers who display a defined number of point-of-sale pieces during the designated period specified in the Promotion Profile shall win the corresponding prize listed in the Promotion Profile.~~
  52. ~~Mystery Shopper—Retailer. The Lottery shall send out mystery shoppers or spotters to visit randomly selected retailers in the promotional area. Retailers who display point-of-sale materials and promote the targeted game or games according to the Promotion Profile shall win the designated prize.~~
  53. ~~Ask for the Sale—Retailer. Retailers participating in the promotion shall ask all customers if they want to purchase a Lottery ticket for the targeted game or games. If the Retailer does not ask a customer, the customer shall receive a free Lottery ticket from the designated game. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game or games according to the Promotion Profile.~~
  54. ~~Ask Me What the Jackpot Is—Retailer. Customers who ask a participating retailer what the targeted game’s jackpot is and the retailer does not know the jackpot amount, the customer shall receive a free ticket from the targeted game. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game according to the Promotion Profile.~~
  55. ~~Ask Me What the Grand Prize Is—Retailer. Customers who ask a participating retailer what the targeted game’s Grand Prize is and the retailer does not know the grand prize amount, the customer shall receive a free ticket from the targeted game. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game according to the Promotion Profile.~~
  56. ~~Retailer’s Second Chance Drawing—Retailer/Player. Retailers participating in the promotion shall ask all players to place their non-winning tickets in a Drawing Container at the retailer’s location. The retailer shall perform random drawings according to the Promotions Profile. The players selected in the drawing procedure shall win the merchandise prize designated on the point of purchase item at the store. The Lottery shall provide the participating retailer with a predetermined number of tickets from the targeted game or games or promotional merchandise items, such as t-shirts, ball caps and sipper cups, according to the Promotion Profile.~~
  57. ~~Cross Promotion—Vendor. Players who present a predetermined number of non-winning tickets of the targeted game or games to a particular vendor shall win a merchandise or service prize or merchandise or service discount according to the Promotion Profile. For example, 5 non-winning POWERBALL tickets presented to Vendor A receives a 12 ounce name brand soft drink. Non-winning ticket presented to Vendor B receives \$1 off price of meal. Coupon on 12 packs of a name brand soft drink can be redeemed for 1 free POWERBALL ticket at Vendor A. 5 non-winning tickets receive a free game of bowling, goofy golf, 2 for 1 movie tickets, etc.~~
  58. ~~Radio Promotion—Vendor. The caller to a radio station who answers a Lottery trivia question correctly or the Nth caller at a specific time may win a free ticket from the targeted game or games or promotional merchandise prize as described in the Promotion Profile. The Lottery may provide the participating radio station with a predetermined number of tickets from the targeted game or games or promotional merchandise items.~~
  59. ~~Charitable Organization. The Lottery may provide a qualifying charitable organization with a predetermined number of the targeted game or games tickets or promotional merchandise to distribute to customers during their charitable event. The Lottery may approve the charity’s program in writing and complete a Promotion Profile.~~
  60. ~~Public Contest—not related to specific Lottery game. The Lottery may conduct a contest not related to any specific Lottery game as defined in the Promotion Profile. Public contest may be for the purpose of obtaining desired public comment prior to making promotional decisions by the Lottery.~~
  61. ~~Customer Service—Tickets. If a player is inconvenienced or is unhappy as a result of Lottery actions below the usual level of service the Lottery provides, the Lottery may provide the player with a predetermined number of tickets free according to the Promotions Profile.~~
  62. ~~Customer Service—Ticket Coupon. If a player is inconvenienced or is unhappy as a result of Lottery actions below the usual level of service the Lottery provides, the Lottery may provide the player with a coupon to be redeemed for a~~

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- predetermined number of tickets free with the purchase of the same game tickets according to the Promotions Profile.
63. ~~Customer Service—Merchandise.~~ If a player is inconvenienced or is unhappy as a result of Lottery actions below the usual level of service the Lottery provides, the Lottery may provide the player with a merchandise prize according to the Promotions Profile.
64. ~~POWERBALL™ Doubler Promotion.~~ A player who purchases a predetermined number of POWERBALL™ tickets for a single draw are eligible to double the amount of any cash Set Prize won in a drawing held during the promotional period. A qualifying play which wins one of the eight cash Set Prizes will receive double if, in a separate random drawing announced during the live POWERBALL™ drawing, the “Double Prize” chance is selected.
65. ~~POWERBALL™ MUSL Promotions.~~ The Lottery may participate in POWERBALL™ promotions adopted by the MUSL board.

**R19-3-1005. ~~Promotion Ticket Ownership and Payment for Promotion Winnings Repealed~~**

- ~~A. Until a ticket is signed, the ticket is owned by its physical possessor.~~
- ~~B. When signed, the claimant whose signature appears on the ticket is entitled to the corresponding prize.~~
- ~~C. The Arizona Lottery shall only make payment to the claimant, less any authorized debt set off amounts, who is also the ticket holder.~~
- ~~D. All prize levels are specified in the Promotion Profile. Each play winning any prize entitles the winner to the prize or prize amount specified in the Promotion Profile.~~

**R19-3-1006. ~~Promotion Validation Requirements Repealed~~**

- ~~A. Each promotion ticket shall be valid and validated prior to payment of a prize.~~
- ~~B. To be a valid promotion ticket and eligible to receive a prize, a ticket shall satisfy all the requirements established by 19 A.A.C. 3.~~

**R19-3-1007. ~~Procedure for Claiming Prizes and Claim Period~~**

- ~~A. To claim a promotion prize, a claimant may take the ticket to a participating retailer or a Lottery office, or mail the ticket to a Lottery office designated in the Promotion Profile for validation in accordance with 19 A.A.C. 3 must follow the procedure provided in the promotion profile.~~
- ~~B. In order for the claimant to receive payment, a winning promotion ticket shall be received by the Arizona Lottery or a retailer no later than the time specified in the Promotion Profile. Items used in a promotion are subject to the terms of the promotion profile. Any rule regarding ownership, validation, procedures for claiming a prize, or claim period for a ticket that is used as part of a promotion can be modified or shortened in order to fit within the promotion period if approved by an order of the Lottery Commission in the promotion profile.~~
- ~~C. In the case of a drawing prize, the claimant must claim the prize no later than 5:00 p.m. (Phoenix time) on the final day designated by the Director and on file at the Arizona Lottery.~~

**R19-3-1008. ~~Disputes Concerning a Promotion Ticket or a Promotion Winner~~**

- ~~A. If a dispute between the Arizona Lottery and a claimant occurs concerning a promotion ticket or the winning of a promotion prize, the Director is authorized to replace the disputed ticket with a ticket or tickets of equivalent value from any current promotion. The decision of the Director is a final, appealable agency action.~~
- ~~B. If a defective promotion ticket is obtained, the Arizona Lottery shall replace the defective ticket with a ticket of equivalent value from any current promotion. Upon claim verification, the Lottery shall be discharged of all liability upon payment of the prize.~~
- ~~C. The Arizona Lottery shall not be liable for paying the difference in a prize amount previously paid to a claimant and the actual amount that should be paid unless the claimant provides documentation establishing:~~
- ~~1. The claimant was paid the lesser amount, and;~~
  - ~~2. The claimant is entitled to greater amount, according to the records on file at the Arizona Lottery and the criteria set forth in these rules and Lottery Commission Order authorizing promotion pursuant to A.R.S. § 5-504(C) or A.R.S. § 5-504(D).~~

~~By accepting a prize, the winner, his or her heirs, or legal representative agrees to indemnify and hold harmless, release, and discharge the Lottery, its employees, directors, and Commissioners from and against loss, claim, damage, suit, or injury arising out of or relating to the acceptance of the prize.~~